

Chapter 16 - LAND DEVELOPMENT CODE¹¹

Footnotes:

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State Law reference— Municipal building and zoning regulations—Planning, A.C.A. § 14-56-101 et seq.

ARTICLE I. - IN GENERAL

Sec. 16-1. - Application and fees.

Along with the submission of a subdivision preliminary plat to the city planning commission, owners and/or developers shall complete an application provided by the city, provide all documents requested, and remit a nonrefundable review fee of \$400.00. In the event engineering review fees and costs incurred by the city exceed \$400.00, owners and/or developers shall reimburse the city for all additional expenses incurred. The required fees must be paid before the mayor will sign the final plat. This fee is in addition to the standard submittal fees that the city has established.

(Ord. No. 826, § 1, 3-4-2008)

Sec. 16-2. - Engineering fees and costs.

Along with the submission of a large-scale development plan, owners and/or developers shall complete an application provided by the city, provide all documents requested, and remit a nonrefundable review fee of \$500.00. In the event engineering review fees and costs exceed \$500.00, the owners and/or developers shall reimburse the city for all additional expenses incurred. The required fees must be paid before the city will issue a certificate of occupancy for the first building that is part of the project. This fee is in addition to the standard submittal fees that the city has established.

(Ord. No. 826, § 2, 3-4-2008)

Sec. 16-3. - Moving of buildings.

- (a) *Relocation within or into city limits.* No building or structure, as defined in the building code(s) as adopted in the City of Lowell, except and excluding only new manufactured buildings and new modular type buildings, shall be moved from the lot on which it is standing in the city and relocated on another lot within the city, and no building or structure shall be moved from outside the city and relocated into the city.
- (b) *Moving out of city limits.* Buildings and structures may be removed from within the city to points outside the city upon obtaining a moving permit and paying the fee therefor.
- (c) *Schedule of moving.* Every mover shall arrange for a schedule of moving, as to time, date and route to be followed, with the fire department and the police department, before any building or structure is moved. No building or structure exceeding 18 feet in height when loaded for moving shall be moved within, into or from the city, and advance notice shall be given to all utility companies that may have power or telephone lines along the route for moving any building or structure.
- (d) *Exceptions.* This section shall not apply to buildings which are historical in character or nature. For the purposes of this section, a building shall be deemed historical if it is at least 100 years old, and a permit to move said structure shall be issued as a matter of right. If the structure in question is less than 100 years old, its designation as historical shall be determined by the city planning commission and the decision to allow a moving permit shall be made by them; provided, however, that the decision shall be appealable to the city council, and their decision shall be final.

([Ord. No. 1044, § 1, 1-21-2020](#))

Secs. 16-4—16-22. - Reserved.

ARTICLE II. - PLANNING COMMISSION²

Footnotes:

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State Law reference— Municipal planning generally, A.C.A. § 14-56-401 et seq.

Sec. 16-23. - Created; composition.

There is hereby created a commission to be known as the Lowell Planning Commission, which commission shall consist of seven members of whom not more than one-third may hold any other municipal office or appointment.

(Code 1992, § 8-26; Ord. No. 115, § 1, 6-2-1970; Ord. No. 93-335, § 1, 3-9-1993)

State Law reference— Authority to create planning commission and minimum membership requirements, A.C.A. § 14-56-404.

Sec. 16-24. - Appointment of members.

The members of the planning commission shall be named and appointed by the mayor, and his appointments will be valid and effective upon confirmation by the city council.

(Code 1992, § 8-27; Ord. No. 115, § 3, 6-2-1970)

State Law reference— Appointment of members of planning commission, A.C.A. § 14-56-405.

Sec. 16-25. - Terms of members.

The terms of the members of the planning commission shall be for three years. However, the initial appointments to the planning commission to be made on or before June 13, 1989, shall institute staggered terms for the members of the planning commission. Therefore, two of the appointees shall serve three-year terms, two additional appointees shall serve two-year terms, and one appointee shall serve a one-year term. The mayor shall designate which appointee shall receive which term. All members of the planning commission shall serve until the expiration of their terms and until their successors in office have been appointed and confirmed. Vacancies in the planning commission shall be filled by appointment of the mayor and confirmation by the city council.

(Code 1992, § 8-28; Ord. No. 115, § 4, 6-2-1970; Ord. No. 282, § 2, 5-9-1989)

State Law reference— Terms of planning commission members, A.C.A. § 14-56-405.

Sec. 16-26. - Duties and functions.

The planning commission shall have all the duties and functions authorized by A.C.A. tit. 14, ch. 56, subch. 4 (A.C.A. § 14-56-401 et seq.), as amended.

(Code 1992, § 8-29; Ord. No. 115, § 2, 6-2-1970)

Sec. 16-27. - Reimbursement for incurred expenses.

The membership of the planning commission will be reimbursed for expenses incurred. The amount of reimbursement shall be established by the city council in the annual budget ordinance.

(Code 1992, § 8-30; Ord. No. 469, § 1, 1-13-1998; Ord. No. 501, § 1, 4-13-1999; Ord. No. 647, § 1, 11-4-2003)

Secs. 16-28—16-57. - Reserved.

ARTICLE III. - ZONING³¹

Footnotes:

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State Law reference— Zoning ordinances, A.C.A. §§ 14-56-301 et seq., 14-56-416.

DIVISION 1. - GENERALLY

Sec. 16-58. - Title.

This article shall constitute the zoning regulations of the city. It may be cited as the "zoning ordinance" or the "zoning code," and consists of the text, which follows, as well the zoning district boundary map, entitled "Official Zoning Map of the City of Lowell, Arkansas," which is on file in the office of the city clerk-treasurer.

(Ord. No. 754, § 8-101, 7-6-2006)

Sec. 16-59. - Authority.

- (a) These regulations are adopted pursuant to authority granted by the Arkansas General Assembly in Title 14, Chapter 56, Subchapter 4 of the Arkansas Code of 1987 Annotated (A.C.A. § 14-56-401 et seq.).
- (b) All membership in the various boards and commissions having authority hereunder, acting prior to the effective date of the ordinance from which this article is derived, shall remain in office and serve the remainder of their respective terms.

(Ord. No. 754, § 8-102, 7-6-2006; [Ord. No. 991, § 1, 6-20-2017](#); [Ord. No. 996, § 1, 8-15-2017](#); [Ord. No. 997, § 1, 8-15-2017](#); [Ord. No. 1004, § 1, 11-21-2017](#))

Sec. 16-60. - Purpose.

The zoning regulations set forth herein are enacted to promote, in accordance with present and future needs, the safety, order, convenience, prosperity, and general welfare of the citizens of the city. The regulations are also intended to aid in the implementation of the City of Lowell Comprehensive Plan

2025. The regulations are intended to provide for orderly growth and development; for protection of the character and stability of residential, commercial, industrial, recreational, and environmentally sensitive areas; for protection of property from blight and undue depreciation; for efficiency and economy in the process of development for the appropriate and best use of land; for the use and occupancy of buildings; for healthful and convenient distribution of population; for good civic design and arrangement; and for adequate public utilities, facilities and infrastructure.

(Ord. No. 754, § 8-103, 7-6-2006)

Sec. 16-61. - Jurisdiction.

The provisions of these regulations shall apply to all land, buildings and structures within the corporate limits as they now, or may hereafter exist.

(Ord. No. 754, § 8-104, 7-6-2006)

Sec. 16-62. - Nature and application.

- (a) For the purposes stated in section 16-60, the city has been divided into zoning districts in which the regulations contained herein will govern lot coverage; the height, area, bulk, location, and size of buildings; open space; and the uses of land, buildings, and structures. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, order, convenience, prosperity, and general welfare. Whenever these requirements are in conflict with the requirements of any other lawfully adopted rules or regulations, the most restrictive, or that imposing the higher standards, shall govern; provided, however, that the city shall not be responsible for enforcing deed restrictions or restrictive covenants.
- (b) No land shall be used or occupied, no structure shall be erected, moved, converted, altered, enlarged, used or occupied, and no use shall be permitted, unless it is in conformity with the regulations herein prescribed for the district in which such structure or land is located. This provision shall not be construed to affect any lawful uses of land or structures that exist, or for which a lawfully issued permit has been issued, at the effective date of the ordinance from which this article is derived.
- (c) No proposed plat of any new subdivision of land shall hereafter be considered for approval unless the lots within such plat equal or exceed the minimum size and area requirements specified in the applicable zoning district in which the land is located or appropriate variance request has been approved.
- (d) No open space required by these regulations for a particular structure or use shall be claimed at the same time as open space for another structure or use.
- (e) All structures constructed or occupied in conformance with these regulations shall also conform to all other codes and regulations of the city.

(Ord. No. 754, § 8-105, 7-6-2006)

Sec. 16-63. - Rules of construction.

For the purpose of these regulations, the following rules of construction shall apply:

- (1) Words, phrases, and terms defined herein shall be given the defined meaning.
- (2) Words, phrases, and terms not defined herein but in the building code shall be construed as defined in such code.
- (3) Words, phrases, and terms neither defined herein nor in the building code shall be given their usual and customary meanings except where the context clearly indicates a different meaning.

- (4) In case of any difference of meaning or implication between the text and any heading, drawing, table or figure, the text shall control.
- (5) The particular shall control the general.
- (6) The word "shall" is always mandatory and not discretionary. The word "may" is permissive and not mandatory.
- (7) Words used in the present tense include the future tense, and words used in the future tense include the present tense.
- (8) The words "building" and "structure" are synonymous, and include any part thereof.
- (9) The word "person" includes individuals, firms, corporations, associations and any other similar entities.
- (10) The words "lot," "parcel," "site," "tract," or other unit of ownership are synonymous and may be used interchangeably.
- (11) The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used.
- (12) All public officials, bodies, and agencies to which reference is made are those of the city, unless otherwise indicated.
- (13) Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such resolution, ordinance, statute, regulation, or document, unless otherwise expressly stated.
- (14) Whenever a provision appears requiring the head of a department or another officer or employee to perform an act or duty, that provision shall be construed as authorizing the department head or officer or employee to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.
- (15) Unless the context clearly suggests the contrary, the conjunction "and" indicates that all connected items, conditions, provisions or events shall apply, and the conjunction "or" indicates that one or more of the connected items, conditions, provisions or events shall apply.

(Ord. No. 754, § 8-121, 7-6-2006)

Sec. 16-64. - Definitions.

This section contains definitions of general terms used throughout the text. It also contains definitions for the uses identified in the text. The use definitions are intended to be mutually exclusive, which means that uses that are specifically defined shall not also be considered a part of a more general definition of that use. The use "retail/service," for example, does not include the more specific use "convenience store."

Access easement means a right-of-way or parcel of land specified or set aside as the way or means by which a piece of property is approached or entered, given by the owner of land to another party.

Accessory buildings and uses means a subordinate building or a portion of the principal building, the use of which is customarily found in connection with that of the main building or structure on the same lot, including a private garage. If the building otherwise qualified as an accessory building is attached to the main building by a common wall or roof, such building shall be considered a part of the main building.

Adult entertainment means any adult cabaret, adult theater, adult bookstore, adult massage establishment, model studio, or sexual encounter or meditation center which depicts or describes matters or activities relating to specified sexual activities or specified anatomical areas. A business will meet this definition if greater than ten percent of the total business is directed to adult entertainment activities.

Agriculture or farm means a parcel of land used for the growing or raising of agricultural products for retail or wholesale purposes, including related structures thereon.

Agriculture, animal, means the use of any land for the purpose of raising livestock.

Agriculture, crop, means the use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products.

Agriculture, product sales, means the retail sale of agricultural products produced on the same site.

Alley means a narrow public way, not in excess of 20 feet, which affords a secondary means of access to abutting properties, and not intended for general traffic circulation.

Amusement places means a facility that may include structures and buildings where there are various devices for entertainment. This may include, but not be limited to, rides, booths for the conduct of games or sale of items, motorized vehicles, miniature golf, batting cages, driving ranges, studios, shows and other types of indoor and/or outdoor entertainment.

Animal care, general, means a use providing animal care, veterinary services or boarding.

Animal care, limited, means a use providing small animal (household pet) boarding or veterinary services, with no outside runs.

Apartment means a room or suite of rooms within a building with separate cooking, bathing, and sleeping facilities and intended as a single dwelling unit. Structures containing three or more dwelling units are considered apartments.

Area means the amount of land surface in a lot or parcel of land.

As-built drawing means a document showing how a particular building and/or site have been constructed.

Asphalt or concrete plant means an establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphalted cement, cement or concrete products.

Auditorium or stadium means an open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings.

Auto wrecking or salvage yard means a lot, land or structure, or part thereof, used primarily for the collecting, dismantling, storage and salvaging of machinery or vehicles that are not in operating condition, or for the sale of parts there from; or for the collecting, storage, and salvage of waste paper, scrap metal, or other discard material.

Bank or financial institution means establishments engaged in deposit banking; typically, commercial banks, savings and loans, and credit unions.

Basic industry means the first operation that transforms a material from its raw state to a form suitable for fabrication.

Bed and breakfast means the use of an owner-occupied or manager-occupied residential structure to provide temporary lodging, or lodging and meals, with no more than 12 guestrooms.

Berm means an earthen mound designed to provide visual interest, screen views, and/or decrease noise.

Buffer means continuous area of land set aside along the perimeter of a lot in which landscaping is used to provide a transition between and reduce the environmental, aesthetic and other impacts of one type of land use upon another.

Building means any structure including a roof supported by walls, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property and forming a construction that is safe and stable.

Building, principal, means a building in which is conducted the principal use of the plot on which it is situated. In any residential district, any structure containing a dwelling unit shall be deemed to be the principal building on the plot on which the same is situated.

Building coverage means the land area covered by all buildings on a lot, excluding eaves.

Building height means the vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the structure, exclusive of chimneys, ventilators, or other extension above the roofline.

Building lines means the lines that are parallel to the front, side, or rear lot lines of a lot at a distance equal to the minimum setback requirements, and beyond which any part of the building proper shall not be located closer to said lot lines.

Carport means space for the housing or storage of motor vehicles and enclosed on not more than two sides by walls.

Cemetery means land used, or intended to be used, for burial of the dead, whether human or animal, including a mausoleum, columbarium or cinerarium.

Certificate of occupancy means permission to occupy a building and/or property.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, including day cares, is maintained and controlled by a religious body organized to sustain public worship.

Club or lodge means an association of persons for the promotion of some nonprofit common purpose, such as charity, literature, science, politics, fellowship, etc., meeting periodically, and limited to members.

College or university means an institution of higher education offering undergraduate or graduate degrees.

Comprehensive plan means the City of Lowell Comprehensive Plan 2025 or most current edition of the plan.

Convenience store means an establishment, not exceeding 3,500 square feet of gross floor area, serving a limited market area, and engaged in the retail sale of food, beverages, gasoline and other frequently or recurrently needed merchandise for household or automotive use.

Country club means a chartered, nonprofit membership club catering primarily to its membership, providing one or more of the following social and recreational activities: golf, tennis, swimming, riding, or outdoor recreation. Such clubs typically include dining facilities, clubhouses, locker rooms, and pro shops.

Cultivated landscape area means a planted area that is frequently maintained by mowing, irrigating, pruning, fertilizing, etc.

Day care, adult, means a commercial establishment where adult care services are provided whether in a home or separate structure and where services to be provided pursuant to state laws and fire codes, and in accordance with, and licensed by appropriate state agencies.

Day care, child, means a commercial establishment where child care services are provided whether in a home or separate structure and where services to be provided pursuant to state laws and fire codes, and in accordance with, and licensed by appropriate state agencies.

Detached structure means a structure having no party or common wall with another structure.

Development means the act of changing the state of a tract of land after its function has been purposefully changed by man; including, but not limited to, structures on the land and alterations to the land.

Development or site plan means a dimensioned presentation of the proposed development of a specified parcel of land that reflects thereon the location of buildings, easements, parking arrangements, public access, and other similar and pertinent features.

District, zoning, means any portion or section of the city within which uniform zoning regulations apply.

Drip line means a vertical line extending from the outermost branches of a tree to the ground.

Drive-in establishment means a facility where services or products are delivered to persons in vehicles by means of a drive-up window or carhop.

Duplex. See *Dwelling, two-family (duplex)*.

Dwelling means a building or portion thereof which is designed or used as living quarters for one or more families; but not including motels, boardinghouses, tourist homes, convalescent homes, travel trailers, mobile homes, or manufactured housing.

Dwelling, attached, means a dwelling that is joined to another dwelling at one or more sides by a wall.

Dwelling, detached, means a dwelling that has no common wall or roof with another structure.

Dwelling, multifamily, means a dwelling designed for or occupied by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or motels.

Dwelling, single-family, means a dwelling designed for or occupied by one family only, and being on a permanent foundation.

Dwelling, two-family (duplex), means a dwelling designed for or occupied by two families living independently of each other.

Dwelling, townhouse, or row house means two or more dwelling units attached at the side, each unit of which has a separate outdoor entrance and is designed to be occupied and owned by one family.

Dwelling, zero lot line, means a single detached dwelling unit that is constructed on a side property line of said lot; such that the wall located on the side property line should be "blank" with no openings of any type allowed.

Dwelling unit means a room or group of rooms located within a dwelling and forming a single habitable unit with facilities for living, sanitation, sleeping, and cooking.

Ecosystem means an assemblage of plant and animal life within a specific physical environment and all interactions among species and between species and their environment.

Efficiency unit means a dwelling unit that contains living, sanitation, sleeping, and cooking facilities, but not a separate bedroom for sleeping, for not more than two adults.

Emergency housing unit means a manufactured housing unit or residential-design manufactured housing unit that is located on the same lot as a principal single-family dwelling to be used solely for the purpose of providing temporary accommodations for a family member in need of daily assistance due to health reasons. Such reasons shall be certified by a licensed physician.

Escort service means a legal business wherein one person is paid to escort or accompany another to an event or occurrence. Sexual or adult entertainment does not meet this definition.

Evergreen means a plant with foliage that persists and remains green throughout the year.

Family means one or more persons related by blood, marriage or adoption, or a group of not more than five unrelated persons living together and subsisting in common as a single, nonprofit housekeeping unit utilizing only one kitchen.

Farm means a parcel of land used for the growing or raising of agricultural products for retail or wholesale purposes, including related structures thereon.

Fence means a barrier constructed to provide privacy or visual separation between one ownership and another.

Floodplain regulations means provisions of the City of Lowell Flood Damage Prevention Code.

Floor area means the sum of the gross horizontal areas of all of the floors of a principal building or buildings, excluding garages and covered parking areas, measured from the exterior faces of exterior walls, or from the centerline of walls separating two buildings.

Freight terminal means a building or area in which freight, brought by motor truck or rail, is assembled and/or stored for routing in intrastate or interstate shipment by motor truck or rail.

Frontage means that edge of a lot bordering a street.

Fulfillment center means logistics warehouse where incoming orders are received, processed and filled.

Garage, private, means an accessory building or a part of a main building used for storage purposes only for automobiles, vans, pickup trucks and the like, used solely by the occupants and their guests of the building to which it is accessory.

Golf course means a facility providing private or public golf recreation services and support facilities, excluding miniature golf facilities.

Government services means buildings or facilities owned or operated by government entities and providing services for the public, excluding utilities and recreational services. Typical uses include administrative offices of government agencies and utility billing offices.

Greenhouse ornursery means an establishment primarily engaged in the raising and retail sale of horticultural specialties such as flowers, shrubs, and trees, intended for ornamental or landscaping purposes.

Ground cover means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

Group residential means the use of a site for occupancy by groups of more than five persons, not defined as a family. Typical uses include residence halls, and boardinghouses or lodging houses.

Hazardous waste means any solid, liquid, semisolid, or gaseous waste, whether alone or in combination, whether used, reused or reclaimed, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to, an increase in mortality, or an increase in serious irreversible, or incapacitating reversible, illness, or which may pose a substantial present or potential hazard to human health or the environment.

Hedge means a landscape barrier consisting of a continuous, dense planting of shrubs.

Home occupation means any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, which is conducted entirely within the main building, and which meets all other applicable standards and use limitations as described herein.

Hospital means an institution providing health services primarily for human inpatient or medical or surgical care for the sick or injured, and including related facilities such as laboratories, outpatient departments, training and research facilities, central service facilities, pharmacies, and staff offices which are an integral part of the facilities.

Hotel or motel means an establishment where overnight accommodations are supplied for transient guests. Typical accessory uses include dining, swimming, and meeting facilities.

Irrigation system means a permanent, artificial watering system designed to transport and distribute water to plants.

Kennel means the use of land or buildings for the purpose of selling, breeding, boarding, or training dogs or cats, or both, or the keeping of more than five dogs and cats over the age of six months. The term "selling" shall not be construed to include the sale of animals three months of age or younger which is the natural increase of animals kept by persons not operating a kennel as herein defined; nor shall selling be determined to include isolated sales of animals over three months old by persons not operating a kennel as herein described.

Landscape architect, as defined by the American Society of Landscape Architects, must be registered in the state.

Library means a publicly operated facility housing a collection of books, magazines, audiotapes and videotapes, or other material for borrowing and use by the general public.

Loft apartment means one or more dwelling units located on the upper floor of a building utilized principally for commercial or office purposes.

Lot means land occupied or intended for occupancy by a use permitted in these regulations, including one main building together with its accessory building, and the open spaces and parking spaces required herein, and having its principal frontage upon a street.

Lot, corner, means a lot abutting two or more streets at their intersection.

Lot, double frontage, means a lot that is an interior lot extending from one street to another and abutting a street on two ends.

Lot, interior, means any lot which is not a corner lot.

Lot area means the total horizontal area of a lot lying within the lot lines.

Lot line means the boundary lines of a lot.

Lot line, front, means, in the case of an interior lot, the line separating said lot from that street which is designed as the front street in the request for a building permit.

Lot line, rear, means the lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line.

Lot line, side, means any lot line other than a front or rear lot line as defined herein.

Lot of record means a lot that is a part of a subdivision, the plat of which has been recorded in the office of the county circuit clerk.

Lot width means the width of a lot measured at the front building setback line.

Manufactured housing unit means a detached single-family housing unit fabricated in an off-site manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. For purposes of these regulations, the term "manufactured housing unit," when used by itself, shall not mean the same as a "residential-design manufactured housing unit."

Manufactured housing unit, residential-design, means a manufactured housing unit which has a minimum width of 24 feet, with width measured perpendicular to the longest axis at the narrowest part, a pitched roof, and siding and roofing materials which are customarily used on site-built homes, and which complies with all of the standards specified herein.

Manufactured housing park means a tract of land in one ownership that is used or intended to be used by two or more manufactured housing units, and which has public sanitary sewer facilities, public water, electricity, and other utilities available.

Manufacturing, general, means an establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding "basic industry."

Manufacturing, limited, means an establishment primarily engaged in the on-site production of goods by hand manufacturing which generally involves only the use of hand tools or other equipment not exceeding two horsepower or a kiln not exceeding eight kilowatts, which may include assembly and packaging, as well as incidental, direct sales to consumers of those goods produced on-site.

Medical service means an establishment providing therapeutic, preventative, or corrective personal treatment services on an outpatient basis by physicians, dentists, and other licensed practitioners, as well as the provision of medical testing and analysis services.

Mining or quarrying means the extraction of metallic and nonmetallic minerals, including stone, sand, and gravel operations.

Mobile home means a transportable, factory-built housing unit, fabricated prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974.

Mulch means non-living organic and synthetic materials customarily used in landscaping design to retard erosion and to retain moisture.

Nonconforming structure means a structure, or portion thereof, lawfully existing at the time these regulations became effective, or as amended, which does not comply with the setback, height, or other development standards applicable in the district in which the structure is located.

Nonconforming use means any structure or land lawfully occupied by a use at the time these regulations, or any amendment thereto, became effective, which does not conform to the use or area regulations of the district within which it is located.

Nursing home means any premises where more than three persons are housed and furnished with meals and continuing nursing services.

Office, general, means an establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and similar offices.

Office development, multi-tenant means a freestanding building in which one or more businesses are conducted or professions practiced.

Open space, common, means the area of land that is designed to be accessible for the use and enjoyment of all owners and/or tenants. This space may contain complementary structures, recreational areas and other such improvements, but shall not include parking lots or streets.

Open space, private, means an area of land owned or occupied by a property owner or tenant and available for their private use and enjoyment.

Ornamental tree means a deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

Owner means the property owner of record, according to the office of the county circuit clerk.

Parking, commercial, means a paved area for off-street parking of operable motor vehicles on a temporary basis, other than as accessory parking to a principal use.

Parking space means that portion of a vehicle accommodation area set aside for the parking of one vehicle.

Parks and recreation means a park, playground, open space, or facility, open to the general public and reserved for active or passive recreational activities.

Pedestrian way means a separate right-of-way dedicated to or reserved for public use by pedestrians, which crosses blocks or other tracts of land to facilitate pedestrian access to adjacent streets and properties.

Preserve area means a vegetative area required to be preserved by law.

Principal building means the building on a lot in which the principal use of the lot is conducted.

Principal use means the chief or main recognized use of a structure or of land.

Recreation and entertainment, indoor, means an establishment offering recreation, entertainment or games of skill to the general public for a fee or charge, and that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theaters, pool halls and video game arcades.

Recreation and entertainment, outdoor, means an establishment offering recreation, entertainment or games of skill to the general public for a fee or charge, wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, and miniature golf courses.

Recreational vehicle park means the use of a site providing individual spaces for towed or self-propelled camping vehicles on a daily fee or short-term rental basis.

Research service means an establishment engaged in conducting basic and applied research, including production of prototype products when limited to the minimum scale necessary for full investigation of the merits of a product, excluding production of products used primarily or customarily for sale or for use in non-prototype production operations.

Restaurant, fast-food, means an establishment where the principal business is the sale of food and non-alcoholic beverages in a ready-to-consume state, and where the design or principal method of operation is that of a fast-food or drive-in-style restaurant offering quick food service, where orders are generally not taken at the customer's table, where food is generally served in disposable wrapping or containers, and where food and beverages may be served directly to the customer in an automobile.

Restaurant, general, means an establishment, other than a fast-food restaurant, where the principal business is the sale of food and beverages in a ready-to-consume state and where the design or principal method of operation consists of one or more of the following:

- (1) A sit-down restaurant where customers, normally provided with an individual menu, are generally served food and beverages in nondisposable containers by a restaurant employee at the same table or counter at which the food and beverage items are consumed; or
- (2) A cafeteria or cafeteria-type operation where food and beverages generally are served in nondisposable containers and consumed within the restaurant.

Retail/service means the sale or rental of commonly used goods and merchandise for personal or household use or the provision of services to consumers, excluding those retail and service uses classified more specifically herein. Typical uses include grocery stores, department stores, furniture stores, clothing stores and establishments providing the following products or services: household electronic equipment, sporting goods, bicycles, office supplies, home furnishings, electronics repair, shoe repair, household appliances, wallpaper, carpeting and floor covering, art supplies, kitchen utensils, jewelry, drugs, laundromats, dry cleaners, cosmetics, books, antiques, or automotive parts and accessories.

Safety services means a facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

School, elementary, middle, or high, means the use of a site for instructional purposes on a primary or secondary level.

Screen means a method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls or any appropriate combination thereof.

Service station means an establishment primarily engaged in the retail sale of gasoline or other motor fuels, that may include accessory activities, such as the sale of lubricants, automotive accessories, or supplies, the lubrication or washing of motor vehicles, or the minor adjustment or minor repair of motor vehicles.

Shade tree means a deciduous tree planted primarily for its high crown of foliage or overhead canopy.

Shrub means a woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten feet in height at its maturity.

Sign means any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, pictures, trade names, or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, a service or a commodity or product, which are visible from any public street or right-of-way and designed to attract attention. A sign shall not include such devices located within a building except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant, or insignia of any state, city, or other political unit, or any political, charitable, educational, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event.

Sign, bulletin, means a sign erected by a church, school, institution, or public agency on its premises for announcements.

Sign, commercial, means a sign which directs attention to a service, product, profession, business, or entertainment conducted, sold, or offered on the same lot.

Sign, nameplate, means a sign bearing the name and/or address, occupation, and phone number of persons or uses occupying the premises.

Sign, official, means a sign on public property for informing the public.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the areola; and
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, the pubic region, buttocks or female breast.

Sports complex means a multi-use business with the primary function being sports or sports-related activities, such as sports medicine professionals, dietary consultants, sports rehabilitation, sports equipment and/or clothing sales, sports instruction and/or competition and other activities such as refreshment sales areas.

Storage, outside, means the display, sale, and/or keeping for longer than 24 hours of any material, merchandise, vehicles or other goods outside of an enclosed building or structure.

Story means the horizontal segment of a building between the floor surface and the ceiling next above it, and wholly above grade.

Truck stop. An establishment where the principal business is the sale of fuel, food (regardless of whether fast food or sit-down restaurant), or services intended to attract truck drivers or driving teams and where the design or principal method of operation consists of one or more of the following:

- (a) Sale of diesel or gasoline fuel at an area designated expressly for semi-trucks;
- (b) Commercial truck scales;
- (c) Overnight parking for semi-tractors and/or trailers;
- (d) Truck washes; and
- (e) Showers.

Understory means an assemblage of natural low-level woody, herbaceous, and ground cover species which exist in the area below the canopy of trees.

Use means any functional, social, or technological activity, which is imposed or applied to land or to structures on the land.

Utility, major, means generating plants, electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, communication, rail transportation, water, sewage collection or other similar service. The term "utility" shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities; or other uses defined herein.

Utility, minor, means services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as poles and lines.

Vehicle and equipment sales means an establishment engaged in the retail sale or rental, from the premises, of motorized vehicles, along with incidental service or maintenance. Typical uses include automobile and truck sales, automobile rental, boat sales, and motorcycle sales.

Vehicle repair, general, means an establishment primarily engaged in painting of, or bodywork to, motor vehicles or heavy equipment. Typical uses include paint and body shops.

Vehicle repair, limited, means an establishment primarily engaged in automotive repair other than paint and body shops.

Viable refers to a tree, shrub or other type of plant that in the judgment of the planning director or designee is capable of sustaining its own life processes for a reasonable period of time.

Vocational school means a use providing education or training in business, commercial trades, language, arts, or other similar activity or occupational pursuit, and not otherwise defined as a "college or university" or "primary or secondary school."

Warehouse, residential storage, or mini-warehouse means an enclosed storage facility containing independent, separate units or cubicles that are intended to be leased to persons exclusively for dead storage of their household goods or personal property. The active utilization of any storage space or cubicle within such a storage area for a retail or wholesale business operation is expressly prohibited.

Warehousing means the storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement and storage of products or equipment. Typical uses include truck terminals, major mail distribution centers, frozen food lockers, and moving and storage firms, but excluding residential storage warehouses.

Welding or machine shop means a workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine, welding, and sheet metal shops.

Xeriscape means landscape methods which conserve water through the use of drought-tolerant plant and planting techniques.

Yard means an open space on the same lot with a building, unobstructed from the ground upward, and measured as the minimum horizontal distance between the lot line and the main building.

Yard, front, means a yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street right-of-way line and the main building or any projections thereof other than the projections of uncovered steps, balconies, terraces, or porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

Yard, rear, means a yard extending across the rear of the lot between the side lot lines, and measured between the rear lot line in the rear of the main building or any projection other than steps, unenclosed porches, or entranceways.

Yard, side, means a yard between the main building and the side line of the lot, and extending from the front lot line to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof.

(Ord. No. 754, § 8-122, 7-6-2006; Ord. No. 1031, § 1, 4-16-2019; [Ord. No. 1058, § 1, 9-15-2020](#))

Secs. 16-65—16-86. - Reserved.

DIVISION 2. - NONCONFORMING STRUCTURES AND USES

Sec. 16-87. - Continuance of use.

- (a) Any lawfully established use of a structure or land, on the effective date of the ordinance from which this article is derived or of amendments hereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.
- (b) Any legal nonconforming structure may be continued in use provided there is no physical change other than necessary maintenance and repair.
- (c) Any structure for which a building permit has been lawfully granted prior to the effective date of the ordinance from which this article is derived, or of amendments hereto, may be completed in accordance with the approved plans.

(Ord. No. 754, § 8-131, 7-6-2006)

Sec. 16-88. - Discontinuance of use.

- (a) Whenever any part of a structure or land occupied by a nonconforming use is changed to, or replaced by, a use conforming to the provisions of these regulations, such premises shall not thereafter be used or occupied by a nonconforming use, even though the structure may have been originally designed and constructed for the prior nonconforming use.
- (b) Whenever a nonconforming use of a structure or part thereof has been discontinued or abandoned for a period of six months or more, such use shall not be reestablished, and the use of the premises thereafter shall be in conformity with the regulations of the district; however, an extension of six months may be granted by the planning department in cases of extended illness or other delay when it is expected that the use will resume within the additional six-month period.
- (c) Where no enclosed structure is involved, discontinuance of a nonconforming use for a period of six months shall constitute abandonment, and shall not thereafter be used in a nonconforming manner; however, an extension of six months may be granted by the planning department in cases of extended illness or other delay when it is expected that the use will resume within the additional six-month period.
- (d) Where periods of use are dictated by growing season or livestock rotation, this does not constitute abandonment as long as the use is resumed within a 12-month period.

(Ord. No. 754, § 8-132, 7-6-2006)

Sec. 16-89. - Change of use.

- (a) The nonconforming use of any structure or portion thereof may be changed for occupation by a different nonconforming use if approved by the planning commission, subject to appeal to the board of zoning adjustment. If the change is approved, the previous nonconforming use may not be resumed unless approved by the planning commission.
- (b) A nonconforming use of land without substantial buildings or structures may not be extended or expanded, nor shall it occupy more area than was in use on the effective date of the ordinance from which this article is derived. If such nonconforming use or portion thereof is discontinued for a period

of six months, or changed, any future use of such land or change of use shall be in conformity with the provisions of the district in which such land is located.

(Ord. No. 754, § 8-133, 7-6-2006)

Sec. 16-90. - Repairs and alterations.

- (a) Normal maintenance of a nonconforming structure or of a conforming structure containing a nonconforming use is permitted.
- (b) Alterations may be made when required by law, or when such alterations will actually result in eliminating the nonconformity.
- (c) No structure partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.
- (d) A structure that is nonconforming with respect to yards, height or any other element of bulk regulated by these regulations shall not be altered or expanded in any manner that would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located.

(Ord. No. 754, § 8-134, 7-6-2006)

Sec. 16-91. - Accessories to primary nonconforming uses.

- (a) Addition of, or enlargement, alteration or relocation of, accessories which are incidental to and accommodate the primary nonconforming use may be permitted, after notices and public hearing and approval by the planning commission.
- (b) The procedures for application and review shall be the same as those for use on appeal, with the exception that all notifications must make reference to a request for "alteration, enlargement or relocation of use" instead of a request for a conditional use.

(Ord. No. 754, § 8-135, 7-6-2006)

Sec. 16-92. - Damage and destruction.

If a nonconforming structure or a structure containing a nonconforming use is damaged or destroyed by natural disaster, fire, or other casualty, the structure may be repaired or reconstructed on the same footprint, design and function within a 12-month period from the date of the damage and used for the same purpose as it was before the occurrence. Damage of 50 percent of the value of the structure or greater will constitute new construction and shall conform to building design and current building codes.

(Ord. No. 754, § 8-136, 7-6-2006)

Sec. 16-93. - District changes.

Whenever the boundaries of a zoning district are changed, so as to transfer an area from one district to another, the foregoing provisions shall also apply to any newly created nonconforming uses therein.

(Ord. No. 754, § 8-137, 7-6-2006)

Secs. 16-94—16-114. - Reserved.

DIVISION 3. - ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES

Sec. 16-115. - Zoning districts established.

The following zoning districts, which may be referred to by their abbreviations, are hereby established:

(1) *Base zoning districts.*

R-1	Suburban Neighborhood – 8,000 square foot minimum lot size
R-2	Intermediate Neighborhood – 6,000 square foot minimum lot size
R-3	Urban Neighborhood – 4,000 square foot minimum lot size
MH	Single-Family-Manufactured Housing — 8,000 square foot minimum lot size
C-1	Neighborhood Commercial
C-2	Urban Thoroughfare Commercial
C-3	Central Commercial
I	Industrial

(Ord. No. 754, § 8-141, 7-6-2006)

Sec. 16-116. - Zoning district hierarchy.

References to less restrictive, more restrictive, less intensive and more intensive zoning districts refer to the zoning districts established in section 16-115(1); and represent a progression from the R-1 district as the most restrictive (or least intensive) district to the I district as the least restrictive (or most intensive) district.

(Ord. No. 754, § 8-142, 7-6-2006)

Sec. 16-117. - Zoning district map.

- (a) The location and boundaries of the zoning districts established herein are defined as shown on a map entitled "Official Zoning Map of the City of Lowell, Arkansas," which is on file in the office of the city clerk-treasurer. This map, together with all explanatory data thereon, is hereby adopted by reference, and declared to be a part of these regulations.
- (b) The official zoning map shall be certified as such by signature of the mayor, attested by the city clerk-treasurer.

- (c) When, on recommendation of the planning commission, it is determined that the official zoning map needs to be replaced because it has been damaged, destroyed, lost or is difficult to interpret, the city council may by resolution adopt a new official zoning map. The adoption of a new official zoning map shall supersede the previous map and the new map shall be signed by the mayor, attested by the city clerk-treasurer and noted that it supersedes and replaces the previous map.
- (d) If, in accordance with the provisions of these regulations, changes are made in district boundaries, zoning or other data portrayed on the official zoning map, such changes shall be made on said map as soon as possible, but not more than 30 days after the amendment has been approved by the city council.
- (e) No changes of any nature shall be made on the official zoning map or information shown thereon, except in conformity with the procedures set forth in these regulations. Any unauthorized change of whatever kind by any person shall be considered a violation of these regulations, and punishable pursuant to provisions contained in section 16-313.
- (f) Regardless of the existence of purported copies of the official zoning map, which may from time to time be made or published, the official zoning map located in the office of the city clerk-treasurer shall be the final authority as to the current zoning status of property in the city.
- (g) In areas that are contiguous with border cities, the zoning must be compatible with the neighboring town and zoning will not become effective until written agreement of compatibility is received from the neighboring city, town or entity as required by state law. It is the responsibility of the applicant for rezoning to submit the approving resolution from the neighboring city, town or entity as part of the application package before the rezoning request can be heard by the planning commission.

(Ord. No. 754, § 8-143, 7-6-2006)

Sec. 16-118. - Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts shown on the official zoning map, the planning director shall employ the following rules in interpretations thereof. Decisions of the planning director are subject to appeal to the board of zoning adjustment.

- (1) Boundaries indicated as approximately following the centerlines of streets or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following city limits shall be construed as following city limits.
- (3) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (4) Boundaries indicated as following waterways shall be construed to be following the thread of the stream.
- (5) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (6) Boundaries indicated as parallel to, or extensions of, features mentioned in the preceding rules shall be so construed.
- (7) Where distance is not specifically indicated on the official zoning map, as is typically the case with unsubdivided property, distance shall be determined by the scale of the map.

(Ord. No. 754, § 8-144, 7-6-2006)

Sec. 16-119. - Classification of annexed lands.

All lands proposed for annexation shall be assigned zoning district classification that will become effective at the same time the annexation becomes final. The map amendment procedures contained herein shall be followed in assigning said classification.

(Ord. No. 754, § 8-145, 7-6-2006)

Sec. 16-120. - Vacating of public rights-of-way.

Whenever any street, alley, or other public way is vacated or abandoned by action of the city council pursuant to law, the zoning district classification of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

(Ord. No. 754, § 8-146, 7-6-2006)

Secs. 16-121—16-138. - Reserved.

DIVISION 4. - DISTRICT REGULATIONS

Sec. 16-139. - Residential districts.

- (a) *General description.* There are four residential districts designed to meet present and future housing needs; to protect the character of, and property values in, residential areas; to encourage a suitable environment for family life; and to provide choice in type of housing. One of the districts is reserved for single-family uses and is intended to be defined and protected from the encroachment of uses not performing a function necessary to the suburban residential environment. More specific descriptions of the residential districts are as follows:
- (1) *R-1 Suburban Neighborhood.* The purpose of the R-1 suburban neighborhood district is to accommodate single-family residential development. This zone is characterized by single family detached dwelling units.
 - (2) *R-2 Intermediate Neighborhood.* The purpose of the R-2 intermediate neighborhood district is to accommodate single- and multifamily residential development and to provide a transition between suburban neighborhood development and urban neighborhood or commercial development. This zone is characterized by single-family detached or attached (townhouse) dwelling units, two to four family (duplex, triplex, fourplex) units, and patio/garden (zero lot line) homes. .
 - (3) *R-3 Urban Neighborhood.* The HDR urban neighborhood district is to provide for multifamily development and is characterized by traditional apartment-type units in attached living complexes. Congregate housing for the elderly is also anticipated in this zone. Areas so classified must have all municipal services available. (4) *MH single-family manufactured housing district.* The purpose of the MH single-family manufactured housing district is to accommodate residential development associated with manufactured home living. Minimum lot size shall be 8,000 square feet. Application is primarily intended for areas where this type of housing exists; provided fringe areas thereto, and buffers between such areas and nonresidential uses may also be an appropriate assignment of this classification.
- (b) *Uses permitted.* Uses permitted in the residential districts are set forth in the table of this subsection.
- (1) Where the letter "P" appears opposite a listed use and underneath a residential district, the use is permitted in that district "by right" subject to:
 - a. Providing off-street parking and loading facilities as required by section 16-254;
 - b. Providing landscaping and screening as provided by section 16-256; and
 - c. Conformance with special conditions applying to certain uses as set forth in division 7 of this article.

Only one principal structure per lot shall be permitted in R-1 and MH single-family districts.

- (2) Where the letter "C" appears instead of "P," the use is permitted subject to acquiring a conditional use permit as set forth in section 16-172. Where neither "P" nor "C" appears similarly within the table, the use is not permitted. Any uses which are not listed in the following table will be permitted only upon application for a conditional use permit and approval for such permit by the planning commission.

USE TABLE RESIDENTIAL DISTRICTS				
RESIDENTIAL USES	ZONING DISTRICTS			
	R-1	R-2	R-3	MH
Single-family detached	P	P	P	P
Single-family attached	P	P	P	
Duplex, triplex, fourplex		P	P	
Emergency housing unit	C	C	C	C
Multifamily/Apartment		P	P	
Single manufactured housing unit	P			P
Manufactured housing park				C
Group residential	C	C	C	C
Accessory dwelling unit	C	C	C	C
CIVIC AND COMMERCIAL USES	R-1	R-2	R-3	MH
Airport or airstrip				
Animal care, general	C			
Animal care, limited	C			
Automated teller machine			P	
Bed and breakfast	C	C	C	C
Cemetery	C	C	C	C
Church	C	C	C	C
College or university	C	C	C	C
Communication tower	C	C	C	C
Community center	C	C	C	C
Convenience store	C			
Day care, adult	C	C	C	C
Day care, child	C	C	C	C
Golf course	C	C	C	C
Government service	C	C	C	C

Hospital				
Library	C	C	C	C
Medical services				
Museum	C	C	C	C
Nursing home				
Parks and recreation	P	P	P	P
Post office	C	C	C	C
Recreation/entertainment, indoor		C	C	
Recreation/entertainment, outdoor		C	C	
Safety services	C	C	C	C
School, elementary/middle and high	C	C	C	C
Swimming pool or club	C	C	C	C
Tennis courts or club	C	C	C	C
Utility, major	C	C	C	C
Utility, minor	P	P	P	P
Vocational school	C			
MANUFACTURING AND EXTRACTIVE USES	R-1	R-2	R-3	MH
Asphalt or concrete plant				
Mining or quarrying				
Sod farm	C			
Topsoil				
AGRICULTURAL USES	R-1	R-2	R-3	MH
Agriculture, animal	C	C	C	
Agriculture, crop	C	C	C	
Agriculture, product sales	C	C	C	
Gardening, personal use	P	P	P	P
ACCESSORY USES	Permitted subject to provisions of division			

- (c) *Lot, yard, and height regulations.* Except as otherwise provided herein, no lot or yard shall be established or reduced in dimension or area in any residential district that does not meet the minimum requirements in the table below; nor shall any building or structure be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such district as set forth in said table. A listing of supplements and exceptions to these regulations follows the table below.

MINIMUM DIMENSION REQUIREMENTS				
RESIDENTIAL DISTRICTS				
DIMENSION	ZONING DISTRICTS			
REQUIRED LOT SIZE	R-1	R-2	R-3	MH
Single-family (sq. ft.)	8,000	6,000	4,000	8,000
Duplex (sq. ft.)	NP	10,000	8,000	NP
Triplex/Quadplex/Multifamily (units/acre)	NP	No max.	No max.	NP
Manufactured Housing	1 AC	NP	NP	8,000
Nonresidential uses (sq. ft.)	10,000	8,000	8,000	8,000
Maximum Height	3 stories or 45'	4 stories or 60'	5 stories or 75'	1 story or 15'
Front setback w/ parking in front	25'	25'	25'	25'
Front setback w/ no parking in front	15'	15'	15'	25'
Interior side setback (detached)	7'	5'	5'	7'
Interior side setback (single family attached)	0'	0'	0'	NP
Exterior/street side setback (all uses)	15'	15'	15'	15'
Rear setback (all uses)	25'	15'	15'	25'

NP = not permitted

- (1) The maximum lot coverage (all buildings) shall not exceed 60 percent in in all residential zones.
- (2) When an existing lot is reduced because of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 75 percent of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to comply with minimum lot size requirements.
- (3) Utility facilities, using land or an unoccupied building requiring less than 1,000 square feet of site area, are exempt from minimum lot size requirements of all districts.
- (4) The minimum lot size requirements shall not be interpreted as prohibiting the construction of a single-family residential dwelling unit on a lot that was legally platted and recorded before the adoption of these regulations. For lots that are rendered nonconforming, the necessity of obtaining a variance from such created nonconformity shall not be required as a condition of issuance of a building permit, provided all setback and other requirements can be met.
- (5) Certain architectural features may project into required yards as follows:
 - a. Cornices, canopies, eaves, or other architectural features may project a distance not to exceed 30 inches; however, said architectural features must meet building separation requirements as established by current fire codes.
 - b. Fire escapes may project a distance not exceeding 4½ feet from the exterior wall of the building.

- c. An uncovered stair and necessary landings may project a distance not to exceed three feet, provided such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding three feet in height.
 - d. Bay windows, balconies, and chimneys may project a distance not exceeding 30 inches, provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located.
- (6) When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose and the remaining setback is at least 75 percent of the required minimum setback for the district in which it is located, then that remaining setback shall be deemed to satisfy minimum setback requirements.
- (7) Setback averaging. When a majority of the lots have existing principal structures on them and the street setbacks of said principal structures are on lots within the same block, with the same zoning classification and fronting on the same side of the street, and are less than the required street setback, applicants shall be allowed to use the "average" street setback on that block. In such cases, the "average setback" shall be the mean (average) setback of all developed lots on the same side of the street within the same block as the subject property and with the same zoning classifications; provided that in no case shall more than six lots on either side of the subject property be included in the calculation.
- (8) When adjacent to an R-1 district, multifamily residential and nonresidential structures over 35 feet in height shall have an additional eight-foot side and rear setback for every additional story or 15 feet in building height. The measure resulting in the greatest setback should be used.
- (9) Single-family attached uses shall be exempt from interior side setback requirements, provided that end units within a single-family attached development shall comply with applicable side setback requirements. Such uses may also be exempted from lot width requirements.
- (10) In districts in which zero lot line developments may be permitted, dwelling units within a zero lot line development may be placed on or near one interior side lot line, and therefore be exempt from that interior side setback requirement. Zero lot line setbacks may not be used on street side lot lines or on interior side lot lines adjacent to lots that are not part of the zero lot line development. Zero lot line houses shall be subject to applicable fire codes and the following additional standards:
- a. The minimum distance between all buildings in the development must be equal to twice the side setback required by the underlying zoning district. A deed restriction must be recorded on the deed of each applicable lot to ensure continued compliance with this setback.
 - b. An easement to allow for maintenance or repair is required when the eaves or side wall of a house are within four feet of the adjacent property line. The easement on the adjacent property must provide at least five feet of unobstructed space between the furthest projection of the structure, and be wide enough to allow five feet between the eaves or side wall and the edge of the easement.
 - c. If the sidewall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot are not allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, are allowed.
- (11) Maximum height limitation.
- a. The maximum height limitation is 35 feet in all residential zones with the exception of the R-3 district, where the limitation is 75 feet.
 - b. Chimneys, smokestacks, ventilators, cooling and water towers, bulkheads, grain elevators and silos, utility and flagpoles, belfries, spires and steeples, and monuments and ornamental towers may be erected to any height not in conflict with other city ordinances or federal regulations. Communication towers are exempt only to the extent authorized through conditional use approval.

(Ord. No. 754, § 8-151, 7-6-2006; Ord. No. 933, § 1, 5-21-2013; [Ord. No. 1033, § 1, 4-16-2019](#))

Sec. 16-140. -

REVOKED

(Ord. No. 754, § 8-152, 7-6-2006)

Sec. 16-141.

REVOKED

(Ord. No. 754, § 8-153, 7-6-2006)

Sec. 16-142. - Commercial districts.

- (a) *General description.* Three commercial districts are designated to accommodate a variety of commercial enterprises, including retail, office, and service uses, in harmony with surrounding environments and encouraging a mix of uses that serve the various needs of the community.
- (1) *C-1 Neighborhood commercial.* This district is designated for commercial enterprises that provide essential goods and services to surrounding neighborhoods and typically accommodates lower-intensity commercial uses. It is intended for the development of adaptable mixed-use neighborhood centers that promote walkability and placemaking and encourage intermediate neighborhood residential development that transitions to suburban neighborhood residential development.
 - (2) *C-2 Urban thoroughfare commercial.* This district is designated for commercial uses that depend on high visibility, generate high volumes of traffic, and/or cater to the traveling public. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. It is located adjacent to major thoroughfares and accommodates higher-intensity commercial uses and permits the thoughtful integration of intermediate and urban neighborhood residential uses to facilitate sustainable economic development.
 - (3) *C-3 Central commercial.* This district is designated for high-intensity, mixed-use, spatially-compact development that accommodates commercial, office, governmental, and related uses, including urban neighborhood residential development. The intent is to encourage development that **respects and preserves the historic heritage of Lowell and** creates walkable, livable communities that support a flexible and dynamic range of uses, including public amenities and attractions as well as a mix of housing types in conjunction with commercial enterprises.

(Ord. No. 754, § 8-154, 7-6-2006)

Sec. 16-143.

REVOKED

(Ord. No. 754, § 8-155, 7-6-2006)

Sec. 16-144. - I, industrial district.

The industrial zoning district is applied to areas intended for a range of commercial, light manufacturing and assembly, truck transport and freight terminals, warehousing and storage, wholesaling, packaging, fabrication, display and such limited manufacturing as would mostly be contained within a building, and does not create a nuisance for residential and commercial neighbors.

(Ord. No. 754, § 8-156, 7-6-2006)

Sec. 16-145. - Commercial and industrial district uses permitted.

- (a) Uses permitted in the foregoing districts are set forth in the table below. Where the letter "P" appears opposite a listed use and underneath a district, the use is permitted in that district "by right" subject to:
- (1) Providing off-street parking and loading facilities as required by section 16-254;
 - (2) Providing landscaping and screening as required by section 16-256; and
 - (3) Conformance with special conditions applying to certain uses as set forth in division 7 of this article, the town center district or by other separate regulation.
- (b) Where the letter "C" appears instead of "P", the use is permitted subject to acquiring a conditional use permit as set forth in section 16-172. Where neither "P" nor "C" appears similarly within the table, the use is not permitted. Any uses which are not listed in the following table will be permitted only upon application for a conditional use permit and approval for such permit by the planning commission.
- (c) Karst areas are those identified in the Lowell Karst Study Area map found on the City of Lowell website. Because karst areas have a high degree of connectivity between surface water and groundwater, activities and uses that pose a potential threat to water quality are prohibited.

SCHEDULE OF USES (NONRESIDENTIAL)					
Class Name	C-1	C-2	C-3	LI	Karst*
Abstracters	P	P	P		P
Acoustical contractors		P	P	P	P
Acupuncturists	P	P	P		P
Adhesives and glues — manufacturing				C	
Adoption agencies	P	P	P		P
Agriculture/farm	C	C	C	C	C
Agricultural chemicals				C	
Air cargo and package pickup/dropoff location	P	P	P	P	P
Air conditioning — parts and supplies		P		P	P
Air conditioning contractors		P		P	P
Air conditioning repair		P		P	P
Airports					
Alarm system companies and monitoring	P	P	P	C	P
Alcohol and/or drug treatment program—nonresidential	P	P	P		P
Alcohol and drug treatment centers—residential		C	C		P

Alterations — clothing	P	P	P		P
Aluminum and steel — manufacturing				C	
Ambulance service	C	C	C	C	P
Ammunition sales	C	C	C	C	P
Amusement devices manufacturing				P	P
Amusement devices sales	C	C	C	C	P
Amusement places	C	C	C	C	P
Animal health products sales	P	P	P	P	P
Animal shelters		C	C	C	P
Antiques — dealers	P	P	P	P	P
Antiques — repair and restore	C	C	C	P	P
Apartments	C	P	P	C	P
Apartments — efficiency	C	P	P	C	P
Apartment rental information and services	P	P	P	C	P
Appliances — major — dealers/parts/repair and service	P	P	P	P	P
Appraisers	P	P	P		P
Aquariums retail and aquarium supplies		P	P	C	P
Aquatic gardens or parks	C	C	C	C	P
Arcades	C	P	P	C	P
Archery equipment and supplies		P	P	C	P
Archery ranges		C	C	C	P
Art galleries, dealers and consultants	C	P	P		P
Art instruction and schools	C	P	P		P
Arts and crafts supplies — retail		P	P	C	P
Asphalt/asphalt products manufacturing and storage				C	
Assisted living facilities	C	P	P	C	P
Athletic organizations offices	P	P	P	P	P
Attorneys	P	P	P		P
Auction houses		P	P		P
Audiovisual equipment and supplies		P	P	C	P
Auditorium		C	P	C	P
Auto alarms and security systems		P	P	C	P
Auto auctions		C	C	C	P

Auto body repair and painting		P	C	C	C
Auto body shop new equipment and supplies		P	P	C	C
Auto dealers — new/used cars		P	C	C	P
Auto parts and supplies — new		P	P	C	P
Auto parts and supplies — used — salvage auto		C		C	
Auto renting and leasing		P		C	P
Auto repair and service	C	P	P	P	P
Automated teller machines	P	P	P	C	P
Awards sales		P	P		P
Awnings and canopies — dealers/service and repair		P	P	P	P
Bail bonds		C	C		P
Bait shops		P			P
Bakers — wholesale		P		P	P
Bakery	P	P	P	P	P
Balloons — novelty and toys — retail and delivery	P	P	P		P
Bank/savings and loans/financial institutes	P	P	P		P
Banquet facilities	C	P	P		P
Bar supplies		P	P		P
Barbers	P	P	P		P
Baseball batting ranges		C		C	P
Battery supplies sales		P	P		P
Batting cages — outdoor		C	C	C	P
Beauty salons — equipment and supplies — retail	C	P	P		P
Beauty salons and service	P	P	P		P
Beauty schools	C	P	C		P
Boutique — shops	P	P	P		P
Bed and breakfast		P	P		
Beekeepers		C	C	C	P
Bicycles — dealers and repair		P	P	C	P
Billiard equipment and supplies		P	P	C	P
Billiard parlors		P	P	C	P
Bird baths and statuary		P	P		P
Birds and bird supplies		P	P	C	P

Blueprinting office	P	P	P	P	P
Boardinghouses		C	C		P
Boat builders				P	P
Boat dealers, equipment and supplies and/or repair		P		C	P
Boat storage		P		P	P
Body piercing	C	P	P		P
Boilers — repair and clean		P		P	P
Book binders		P	C	P	P
Book dealers — retail	C	P	P		P
Boots — wholesale and manufacturing		P		P	P
Botanical gardens or parks	C	C	C	C	P
Bottlers		P		P	P
Bowling	P	P	P		P
Bowling equipment and accessories		P	P		P
Boxes — corrugated and fiber- manufacturing		P		P	P
Brake service	C	P	P	P	C
Brewery (Micro)	C	P	P	P	P
Brick — common and face-retail		P	P	P	P
Bridal shops	C	P	P		P
Bus lines		C		C	P
Buses — charter and rental		C		C	P
Camper shells				C	P
Campgrounds and recreational vehicle parks		C		C	C
Candy and confectionery — retail		P	P	P	P
Car stereos — sales and service		P	P	C	P
Car washing and polishing		P		P	
Carpet and rug dealers — new		P	P		P
Carpet and rug distributors and manufacturing		P		P	P
Carport sales		P		P	P
Carriages — rentals, rides	C		C		P
Carriages — sales or manufacturing		P		C	P
Cash registers and supplies		P	P		P
Caskets — manufacturing		P		P	P

Caskets — sales		P	P		P
Casino					
Catalog showrooms	C	P	P		P
Caterers	C	P	P	P	P
Cement — wholesale and manufacturers		C		C	
Cemetery	C	C	C	C	
Cemetery equipment and supplies		P		P	P
Ceramic products — decorative, retail, equipment and supplies	P	P	P		P
Ceramics — instruction	C	P	C		P
Chairs — renting		P	P	P	P
Chambers of commerce	P	P	P	C	P
Charcoal manufacturing or wholesale distribution		C		C	
Chauffer service		P	P		P
Check cashing service	P	P	P		P
Chemicals — manufacturing		C		C	
Child abuse information and treatment centers	P	P	P		P
Child care and preschool	P	P	P	C	P
Child care facilities	P	P	P	C	P
Children and infants wear — retail		P	P		P
Chimney builders and repair		P		P	P
China, crystal and glassware — retail		P	P		P
Church/religious organization meeting space	P	P	P		P
Clinics — medical and dental	P	P	P		P
Clock — retail, repair and service		P	P	C	P
Closed circuit TV — sales, repair		P	P	C	P
Clothing — retail		P	P		P
Coffee service and supplies	C	P	P	C	P
Coin dealers		P	P		P
Compact discs, tapes and records — retail		P	P		P
Compressors — rental, repair, retail		P		P	P
Computer — parts and supplies — retail		P			P
Computer cable and wire installation		P		C	P

Computers — wholesale and manufacturers		P		P	P
Concessionaires	C	P	P	C	P
Concrete products		C		P	P
Concrete pumping service		C		C	
Conference centers		C	C	C	P
Consignment service	C	P	P	C	P
Contractor offices	P	P	P	P	P
Contractors equipment and supplies		P	P	C	P
Contractors equipment — lifts — rental		P		P	P
Convenience stores	C	P	P	C	C
Convention service and facilities		C	C	C	P
Copiers and supplies		P	P		P
Copying and duplicating service	P	P	P	C	P
Costumes — masquerade and theatrical		P	P		P
Counseling services	P	P	P		P
Countertops — manufacturing and/or sales		C	C	P	P
Country club	C	C	C		P
Cranes — renting and leasing		P		P	P
Cremation services/crematorium		C		C	C
Crisis intervention service	P	P	P		P
Dairy equipment and supplies		P		P	P
Dairy products, manufacturing of		P		P	P
Dancing instruction	C	P	P		P
Dancing supplies		P	P		P
Day care centers — adult	P	P	P	C	P
Day care centers — child	P	P	P	C	P
Decks and awnings		P		P	P
Delicatessens	P	P	P		P
Dental equipment and supplies		P	P	C	P
Dental laboratories	P	P	P	P	P
Dentists	P	P	P		P
Department stores		P	P		P
Detective agencies	P	P	P		P

Diabetic equipment and supplies	P	P	P	C	P
Diamond brokers	P	P	P		P
Disabled persons equipment and supplies	C	P	P	C	P
Discount stores		P	P		P
Distillery		C		P	P
Divers equipment and supplies		P	P		P
Dock builders		P		P	P
Dog and cat foods — retail		P	P		P
Dog and cat grooming and supplies	P	P	P		P
Dog and pet training		C	C	C	P
Dogs — breeders		C			P
Donuts	P	P	P	C	P
Doors — overhead type, sales/service		P		P	P
Doors and gate operating devices — sales		P		C	P
Draperies and curtains — retail and custom-made		P	P		P
Draperies and curtains — wholesale and manufacturers		P		P	P
Dressmakers	P	P	P	P	P
Drive-in establishment, not otherwise specified	C	C	C	C	P
Drug abuse testing and screening	P	P	P		P
Dry cleaners	P	P	P	C	
Dry wall contractors equipment and supplies		P	P	C	P
Electric contractors		P	P	C	P
Electric equipment — manufacturers		P		P	P
Electric equipment — repair and service		P		P	P
Electric equipment and supplies — retail and wholesale		P			P
Electronic equipment and supplies		P	P		P
Electronic equipment and supplies — repair and service		C	C		P
Employment agencies	C	P	P		P
Engravers		P	P		P
Escort vehicle service		C		C	P
Escrow service	P	P	P		P
Excavating equipment		P		P	P
Explosives — manufacturing					

Exterminators		C		P	P
Fabric shops		P	P		P
Farm equipment and supplies		P		C	P
Fence companies		P		P	P
Fertilizer dealers		C		C	
Fiberglass fabricators		C		C	
Fiberglass repair		C		C	C
Fire protection equipment and supplies		P	P		P
Fireplace equipment — retail		P	P		P
Fireworks sales (permanent structure)		C	C	C	P
Fitness centers	C	P	P		P
Flea markets		P	P		P
Floor coverings — sales		P	P		P
Florists — retail	P	P	P		P
Formal wear — rental and sales	P	P	P		P
Foundries				C	
Foundry equipment and supplies		P		C	P
Fraternal organizations	C	C	C		P
Freight terminal		P		P	P
Fuels — wholesale				C	
Fulfillment center	C	P	P	P	P
Funeral director equipment and supplies		P			P
Funeral homes	C	P	P	C	P
Furniture dealers — retail		P	P		P
Furniture renting and leasing		P	P		P
Furniture repair and refinish		P	P	P	P
Further food processing				P	
Garden centers	C	P	P		P
Gas — industrial and medical		C		C	P
Gas — liquefied petroleum -bottled (propane sale and refill)		P		P	P
Gas — propane — wholesale and bulk				C	P
Gasoline — wholesale/diesel fuel				C	

Gift shops		P	P		P
Go-kart sales		P	P		P
Golf cars and carts — sales		P	P		P
Golf courses — miniature		C	C	C	P
Golf equipment and supplies — retail/repair		P	P		P
Golf equipment and supplies — wholesale and manufacturers		P		P	P
Golf practice ranges		C		C	P
Grass-sod retail/wholesale		P		P	P
Grinding — precision and production		P		P	P
Grocers — retail	P	P	P		P
Guns — certification and safety instruction		C		C	P
Guns — indoor shooting range		C		C	P
Guns — retail	C	P	C		P
Gunsmiths	C	P	C		P
Gymnasiums	C	P	P		P
Gymnastics instruction	C	P	P		P
Hardware — retail		P	P		P
Hazardous materials disposal					
Hazardous waste					
Health agencies	P	P	P		P
Health clubs	C	P	P		P
Health food products — retail	P	P	P		P
Health food products — wholesale and manufacturers		P		P	P
Hearing aids and hearing assistive devices	P	P	P		P
Hobby and model shops		P	P		P
Home health agencies	P	P	P		P
Home health care equipment and supplies		P	P		P
Home theater systems		P	P		P
Homes — mentally and/or developmentally disabled		C			P
Homes — nursing	C	C	C		P
Homes — residential care facility	C	C	C		P
Honey — manufacturing (beekeeping)		C		C	P

Horse — boarding		C		C	P
Horse breeders		C		C	P
Horse training		C		C	P
Hospice — office (nonresidential)	P	P	P		P
Hospice — residential		C		C	P
Hospital equipment and supplies		P		P	P
Hospital equipment and supplies — renting		P		P	P
Hospitals	C	C	C	C	P
Hot tubs and spas — dealers		P	P	P	P
Hotels		P	P	C	P
Humane societies		C	C	C	P
Hunting equipment and supplies (excluding guns and firearms)		P	P	C	P
Ice cream and frozen desserts — manufacturers and distributors		P	P	P	P
Inside truck and tractor repair				P	P
Inside trailer repair				P	P
Janitor equipment, supplies and service		P		P	C
Jewelers — retail/repair		P	P		P
Kennels		C		C	P
Kennels — equipment and supplies		P			P
Labor organizations office	P	P	P		P
Laboratories — analytical/medical/pathological/testing	C	P	P		P
Landfills					
Landscaping equipment and supplies		P	P		P
Laser hair removal and peels	P	P	P		P
Laundries — coin-operated	C	P	P	C	P
Laundries — commercial		P		P	
Lawnmowers — sales, parts, equipment and repair		P		P	P
Libraries	P	P	P		P
Lighting fixtures — wholesale and manufacturers		P		P	P
Lighting systems and equipment		P		C	P
Limousine service		P		C	P

Linen supply service		P			C
Liquor stores	C	C	C		P
Livestock auction markets					
Lodges	C	C	C		P
Lounges		C	C		P
Lumber — retail and wholesale		P		P	P
Machine shops		P		P	P
Machine tools — repair and rebuild		P		P	P
Mailbox rental and receiving	P	P	P	P	P
Manicuring and pedicuring	P	P	P		P
Manufactured homes — manufacturing				P	P
Manufactured homes — sales and service		P		P	P
Manufacturing — not otherwise specified		C		C	P
Marble — retail/wholesale		P		P	P
Marine equipment, supplies and repair		P		C	P
Martial arts equipment and supplies		P	P		P
Martial arts instruction	C	P	P		P
Massage — equipment and supplies		P	P		P
Massage-therapists	P	P	P		P
Mattresses — retail		P	P		P
Mausoleums					
Meat — wholesale and retail		P	P		P
Meat processing		C		C	C
Medical equipment and supplies		P		P	P
Messenger service		P	P		P
Metal buildings — manufacturing				P	P
Metal buildings — sales and service		P		P	P
Metal fabricators				P	P
Metal finishers equipment and supplies		P		P	
Microfilming and imaging	C	P	P		P
Millwork		P	P	P	P
Mini storage		C		C	P
Miniature golf		P	P		P

Mining or quarrying					
Mobile home supply		P		P	P
Mobile homes — parks and communities					
Mobile homes — repair and service		P		P	P
Mobile homes — sales		P		P	P
Mobile homes — transporting		P		P	P
Modeling agencies	P	P	P		P
Monogramming	P	P	P		P
Monuments- manufacturing		P		P	P
Monuments- sales		P			P
Motels		P	C	C	P
Motion picture producers and studios		P		P	P
Motorcycle racing					
Motorcycles — customizing		C		C	P
Motorcycles and motor scooters — dealers		P	C	C	P
Motorcycles and motor scooters — repairing and service		P		P	P
Motorcycles parts and supplies — retail		P	P	C	P
Movers		P		P	P
Moving equipment rental		P		P	P
Mufflers and exhaust systems		P		P	P
Museums	P	P	P		P
Music instruction — instrumental and vocal	P	P	P		P
Musical instruments — retail and repair		P	P		P
Newspaper distributors (coin-operated machines)	P	P	P	P	P
Newspapers — companies		P	P	P	C
Novelties — adult (retail)					
Novelties — retail		P	P		P
Nurseries — plants and trees/commercial greenhouse		P		P	P
Nutritionists	P	P	P		P
Occupational safety and health	P	P	P		P
Office — general use, not otherwise specified	P	P	P		P
Office furniture and equipment — dealers		P	P		P

Office records — destruction		C		C	P
Office records — storage		C		C	P
Office supplies		P	P		P
Oil change and lubricating service	C	P	P	P	
Optical goods — manufacturers		P		P	P
Optical goods — retail- repair and service		P	P		P
Organs/pianos — tune and repair		P	P	P	P
Orthopedic appliances — sales		P	P		P
Oxygen — sales		P		P	P
Packaging materials and service		P	P		P
Paging and signaling equipment and systems		P	P	P	P
Paint — retail		P	P		P
Paint — wholesale and manufacturers		C		C	
Pallets and skids		C		C	P
Paper manufacturers				C	
Parking lot facility or commercial parking lot		C	C	C	P
Parking lot maintenance and marking		P		P	P
Party supplies		P	P		P
Party supplies — renting		P	P		P
Patio and porch and deck covers and enclosures		P	P	P	P
Paving contractors and materials				P	
Pawnbrokers		P			P
Pest control service, equipment and supplies		C	C	P	P
Pet cemeteries and crematories					
Pet shops		P	P		P
Pet supplies — wholesale and manufacturers		P		P	P
Pet supplies and foods — retail		P	P		P
Pharmacies/Medical Marijuana Dispensaries	P	P	P		P
Photo finishing — retail		P	P		P
Photo finishing — wholesale				C	P
Photographers — portrait and commercial	P	P	P		P
Photographic equipment and supplies — retail		P	P		P
Photographic retouching and restoration		P	P		P

Physical therapy	P	P	P		P
Physical therapy equipment		P	P		P
Physicians	P	P	P		P
Physicians and surgeons equipment and supplies		P	P		P
Physicians chiropractic	P	P	P		P
Pipe		P		P	P
Pipe bending and fabricating		P		P	P
Pipes and smokers articles	P	P	P		P
Pizza	P	P	P		P
Planetarium	C	C	C	C	P
Plasterers equipment and supplies		P	P	C	P
Plastics — fabricating				C	C
Plastics — machinery and equipment		C		C	P
Plastics — products — finished — wholesale		P	P		P
Playground equipment manufacturing		P		P	P
Playground equipment sales		P	P		P
Plumbing fixtures, parts and supplies — retail		P	P		P
Plumbing fixtures, parts and supplies — wholesale and manufacturers		C	C	P	P
Police departments	C	C	C	C	P
Polyurethane products- manufacturing		C		C	
Pool and spa supplies		P	P	P	P
Post offices	C	C	C	C	P
Poultry — wholesale		C		C	
Poultry equipment and supplies		P	P		P
Powder coating		C		C	C
Pressure cleaning		P		P	P
Pressure washing equipment and service		P		P	P
Produce — retail	P	P	P		P
Produce — wholesale		P		P	P
Propane gas- liquefied petroleum- bottled sales		C	C	C	P
Propane gas — wholesale, bulk and refill		C		C	P
Pumps — repairing		P		P	P

Racetracks					
Racetracks — horse					
Racquetball courts	P	P	P		P
Radio stations	P	P	P	P	P
Railroad equipment and supplies		P		P	P
Railroad equipment and supplies — repairing		P		P	P
Real estate agents	P	P	P		P
Real estate schools	C	P	P		P
Recording studios		C	C	C	P
Recreational vehicle parks		C		C	C
Recreational vehicles and campers — dealers		P		C	P
Recreational vehicles and campers — manufacturers and distributors		P		P	P
Recreational vehicles and campers — repair and service		P		P	
Recreational vehicles and campers — storage		C		C	P
Recruiting — armed forces offices	P	P	P		P
Recycling centers		C		C	
Rehabilitation services-nonresidential office	P	P	P		P
Rehabilitation services — residential	C	C	C		P
Religious organizations — offices	P	P	P		P
Rendering companies		C		C	
Rental equipment — not otherwise specified		C	C	C	P
Rental services — not otherwise specified		C	C	C	P
Resale shops	P	P	P		P
Resorts		C		C	P
Restaurant equipment — repair and service and sales		P		P	P
Restaurants — carry out foods/fast food	P	P	P	C	P
Restaurants/general — non-drive-thru type	P	P	P		P
Retail, not otherwise specified	C	C	C		
Riding apparel and equipment	P	P	P		P
Rock shops	P	P	P		P
Rodeos		C		C	P
Roofing materials		P		P	C

Rubber and plastic stamps-sales	P	P	P		P
Rubbish and garbage removal		C		C	
Saddles — new and used sales	P	P	P		P
Saddles — new and used sales and repair		C	C	C	P
Safes and vaults manufacturing		P		P	P
Safes and vaults sales	P	P	P		P
Safety equipment and clothing — sales	P	P	P		P
Salvage yards		C		C	
Sand and gravel		C		C	P
Sandblasting		C		C	P
Sandblasting equipment and supplies		P		P	P
Sanitation service		C		C	
Satellite equipment — sales and service	P	P	P		P
Savings and loans	P	P	P		P
Sawmills		C		C	P
Saws — sharpen and repair		C		P	P
Scales		P		P	P
Scales- trucking		C		C	P
Schools — children with disabilities	C	C	C		P
Schools — industrial and technical and trade	C	C	C		P
Schools — parochial	C	C	C		P
Schools — preschool and elementary	C	C	C		P
Schools — preschool and kindergarten	C	C	C		P
Schools — private	C	C	C		P
Schools — public	C	C	C		P
Schools — universities and colleges	C	C	C		P
Scrap metals		C		C	
Security guard and patrol service	P	P	P	C	P
Self-defense instruction	C	P	P		P
Septic tank cleaning and installation		C		P	
Septic tanks — sales and repair		C		C	
Service station equipment and supplies		C		C	P
Service stations	P	P	P	C	

Sewer and drain cleaning		C		P	P
Sexually oriented/adult entertainment				C	P
Sharpening service		C		P	P
Sheet metal work		C		P	P
Shelter — human	C	C	C		P
Shipping terminal		P		P	P
Shoes — retail	P	P	P		P
Shoes and boots — repair	P	P	P	P	P
Shopping centers and malls	C	P	P	C	P
Signs — engravers — plastic-wood-etc.		P		P	P
Signs — erectors and hangers		P		P	P
Signs — maintenance and repair		P		P	P
Skateboard parks and rinks		C		C	P
Skating equipment and supplies	P	P	P		P
Skating rinks		C		C	P
Snow removal service		C		P	P
Sod and sodding service		C		P	P
Sporting goods — retail	P	P	P		P
Sports cards and memorabilia	P	P	P		P
Sports complex	P	P	P		P
Sportswear — retail	P	P	P		P
Spraying booths and equipment		C		C	
Stables		C		C	P
Stadiums and arenas		C			P
Steam cleaning — automotive		P		P	
Steam cleaning — industrial		C		P	
Steel distributors and warehouses		C		C	P
Steel erectors		C		C	P
Steel fabricators		C		C	P
Steel mills or processing				C	
Stockyards					
Storage — automobile				C	P
Storage — household and commercial		C		C	C

Storm shelters		C		P	P
Stump grinding		C		C	P
Sunrooms and solariums-sales		P		C	P
Surplus and salvage merchandise	C	P	P	C	P
Surveyors — land	P	P	P		P
Swimming pool contractors and dealers		P		P	P
Swimming pool equipment and supplies		P		P	P
Swimming pool repair and service		P		P	P
Swimming pools — private		C		C	P
Swimming pools — public		C		C	P
Tanks — metal		C		C	P
Tanks — repair		C		C	P
Tanning salons	P	P	P		P
Tanning salons — equipment and supplies		P			P
Tattooing and removal	C	P	P		P
Taverns		C	C		P
Taxidermists		P		P	P
Telemarketing services	C	P	P		P
Telephone companies		P		P	P
Telephone equipment and systems — dealers	P	P		C	P
Telephone equipment and systems — service and repair	P	P	P	C	P
Television — cable and satellite equipment and supplies	P	P	P	C	P
Television — cable, CATV and satellite system companies	P	P	P	C	P
Television dealers — retail, sales, service		P	P	C	P
Television stations		P	C	P	P
Tennis courts		C		C	P
Textiles — manufacturers		C		P	
Theatres — live or movie	C	P	P	C	P
Thrift shops	P	P	P		P
Ticket agencies	P	P	P		P
Tile and floor cleaning		P		P	P

Tire dealers — retail		P	P		P
Tire dealers — used		P	P		P
Tire distributors and manufacturers		P		P	C
Tire recap, retread and repair					P
Tobacco products — retail	P	P	P		P
Toilets — portable, sales or construction		C		C	
Tool and die makers		C		P	P
Tool and die makers equipment and supplies		C		P	P
Tool grinding — industrial		C		P	P
Tools — retail	P	P	P		P
Tools — used	P	P	P		P
Tourist information	P	P	P	C	P
Towers — communications		C		C	P
Towing service — automotive, boats, etc.		C		C	
Toys — retail	P	P	P		P
Tractor/trailer — repair and service		C		C	P
Tractor/trailer dealers		P		C	P
Tractor equipment and parts	P	P	P		P
Trailer — repair and service		C		C	P
Trailer manufacturers		C		P	P
Transportation providers		C		C	P
Trash hauling		C		C	P
Travel agencies and bureaus	P	P	P		P
Tree and shrub fertilization, spraying and service		P		P	P
Tree service equipment and supplies		P		P	P
Truck stops					
Truck washing and cleaning		C		P	
Trusses — construction		C		P	P
Turbines		C		P	P
Typing service	P	P	P		P
Uniform supply service		P		P	C
Upholsterers		P		P	P
Utility contractors		P		P	P

Variety stores	P	P	P		P
Vending machines — parts and supplies		P		P	P
Veterinary clinics and hospitals (large animal or with outside kennel)		C		C	C
Veterinary clinics and hospitals (small animal with no outside kennel)	C	C	C	C	P
Warehouses — cold storage		C		C	C
Warehouses — merchandise		C		C	C
Waste recycling and disposal equipment		C		C	P
Waste recycling and disposal service — industrial		C		C	
Water — bottling and distribution		C		P	P
Water companies — utility		C		P	P
Water filtration and purification equipment		P		P	P
Water treatment equipment		C		C	P
Water treatment equipment — service and supplies		C		P	P
Water treatment plant				C	C
Water well drilling and service		P		P	P
Wedding chapels and ceremonies	C	C	C		P
Wedding service and supplies	P	P	P		P
Weight loss offices	P	P	P		P
Welding — services		C		P	P
Welding equipment — repair		C		P	P
Welding equipment and supplies		P		P	P
Wheels — aligning and balancing, frame and axle servicing	C	P	P	P	P
Wigs and hairpieces	P	P	P		P
Wildlife sanctuaries		C		C	P
Window tinting		P		P	P
Windows		P	P	P	P
Windshields — glass manufacturing		P		P	P
Wire and cable — sales and distribution		P		P	P
Women's apparel — retail	P	P	P		P
Woodworking — manufacturing		P		P	P
Wrecker service		C		C	C

X-ray apparatus and supplies		P		P	P
Yoga — instruction	P	P	P		P
Youth centers	C	C	C		P
Zoological gardens	C	C	C	C	P

(Ord. No. 754, § 8-157, sched., 8-30-2006; Ord. No. 848, sched., 8-19-2008; Ord. No. 870, § 1, 4-6-2010; Ord. No. 960, § 1, 9-15-2015; [Ord. No. 994, § 1, 8-15-2017](#); [Ord. No. 1006, § 1, 1-16-2018](#); [Ord. No. 1032, § 1, 4-16-2019](#).)

Sec. 16-146. - Nonresidential lot, yard, and height regulations.

No lot or yard shall be established or reduced in dimension or area in any nonresidential district that does not meet the minimum requirements in the table that follows; nor shall any building or structure be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such district as set forth in said table. A listing of supplements and exceptions to these regulations follows the table.

MINIMUM DIMENSION REQUIREMENTS				
NONRESIDENTIAL DISTRICTS				
DIMENSION	ZONING DISTRICT			
	C-1	C-2	C-3	I
Minimum Lot Size				
Single-family (sq. ft.)	6,000	4,000	4,000	NP
Duplex (sq. ft.)	10,000	8,000	8,000	NP
Multifamily (units/acre)	NO MAX	NO MAX	NO MAX	NP
Nonresidential uses (sq. ft.)	6,000	6,000	4,000	10,000
Front Setback				
With parking in front	25'	25'	25'	50'
If no parking in front	15'	15'		30'

			15'	
Side Setback				
Detached structures	7'	7'	5'	25'
Attached structures	0'	0'	0'	NP
Rear Setback				
	15'	15'	15'	25'
Maximum height	3 stories or 45'	10 stories or 150'	4 stories or 60'	75'
Maximum lot coverage (all uses)	50%	60%	70%	60%

NP = Not permitted.

NS = No written standard. Will be reviewed/approved during planning process.

* Commercial structures will be limited to 45 feet unless the development structure has the following uses: Hotel, warehouse distribution center, multi-tenant office development. These listed developments shall be limited to 150 feet.

- (1) Size reduced for public purpose. When an existing lot is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining area is at least 75 percent of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to comply with minimum lot size requirements.
- (2) Utility exemption. Utility facilities, using land or an unoccupied building requiring less than 1,000 square feet of site area, are exempt from minimum lot size requirements. Screening and compatible architecture are required.
- (3) Setback reduced for public purpose. When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining setback is at least 75 percent of the required minimum setback for the district in which it is located, then that remaining setback shall be deemed to satisfy minimum setback requirements. Setbacks of less than 75 percent of the required minimum will require approved variance request.
- (4) Setback averaging. When a majority of the lots have existing principal structures on them and the street setbacks of said principal structures are on lots within the same block, with the same zoning classification and fronting on the same side of the street and are less than the required street setback, applicants shall be allowed to use the "average" street setback on that block. In such cases, the "average setback" shall be the mean (average) setback of all developed lots on the same side of the street within the same block as the subject property and with the same zoning classifications, and in no case shall more than six lots on either side of the subject property be included in the calculation.
- (5) Setbacks increased by height. When adjacent to an R-1 district, multifamily residential and nonresidential structures over 35 feet in height shall have an additional eight-foot side and rear

setback for every additional story or 15 feet in building height. The measure resulting in the greatest setback should be used.

- (6) Maximum height exclusions. Chimneys, smokestacks, ventilators, cooling and water towers, bulkheads, grain elevators and silos, utility poles and flagpoles, belfries, spires and steeples, and monuments and ornamental towers may be erected to any height not in conflict with the other city ordinances or federal regulations. Communication towers are exempt only to the extent authorized through conditional use approval, if such use is not a use permitted by right.
- (7) When a nonresidential zone abuts a residential zone, minimum setbacks for the residential zone shall be the same as that setback for the abutting nonresidential zone.

(Ord. No. 754, § 8-158, 7-6-2006; [Ord. No. 1059, § 1, 9-15-2020](#).)

Sec. 16-147. -

REVOKED

(Ord. No. 754, § 8-159, 7-6-2006)

Sec. 16-148. -

REVOKED

(Ord. No. 754, § 8-159.1, 7-6-2006)

Secs. 16-149—16-168. - Reserved.

DIVISION 5. - CONDITIONAL USES

Sec. 16-169. - Nature and description.

Certain uses may or may not be appropriately located within various districts due to their unusual or unique characteristics of operation and external effects. Given their unusual character, analysis and judgment of the consequences of each development and use must be given so as to provide for such reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which uses are proposed to be located. Such uses are listed under the various districts herein as "conditional uses," and may be located in the districts so designated only in accordance with the procedure described herein.

(Ord. No. 754, § 8-161, 7-6-2006)

Sec. 16-170. - Development standards and review guidelines.

- (a) All development shall be designed in such a way as to minimize any potential negative impact on the surrounding area. Special attention shall be given to buffering commercial, retail and industrial developments from adjacent residential. Design of the internal traffic circulation system, ingress and egress, off-street parking, loading and pedestrian ways shall be sensitive to such conditions as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, and the proper relationship of different land uses. Landscaped areas shall be provided to protect water quality, and reduce erosion, heat and glare. Such areas shall be maintained in an attractive condition. Existing trees on a development site shall be retained where possible. Screening, open space, or other buffer

may be required to give adequate separation between uses which are marginally compatible, and shall also be provided for the beautification and enhancement of the property.

- (b) In carrying out the purpose of this section, the following development standards and design specifics shall be subject to review and approval. The appropriateness of these standards shall be determined for each specific conditional use location.
- (1) The proposed use is within the provision of "conditional uses," as set out in these regulations.
 - (2) The proposed use conforms to all applicable provisions herein set out for the district in which it is to be located.
 - (3) The proposed use is so designated, located, and proposed to be operated that the public health, safety and welfare will be protected.
 - (4) The proposed land use is compatible with and will not adversely affect other property in the area where it is proposed to be located.
 - (5) The size and shape of the site, including the size, shape and arrangement of proposed structures, as well as signage related thereto, is in keeping with the intent of these regulations.
 - (6) The proposed ingress and egress, internal circulation system, location and amount of off-street parking, loading and pedestrian ways are sufficiently adequate, and not inconsistent with requirements of these regulations.
 - (7) The proposed landscaping and screening of the proposed use are in accordance with provisions of these regulations.
 - (8) Safeguards proposed to limit noxious or offensive emissions, including lighting, noise, glare, dust and odor are addressed.
 - (9) The proposed development is compatible with the surrounding area and the planned use for the surrounding area.

(Ord. No. 754, § 8-162, 7-6-2006)

Sec. 16-171. - Procedure for authorizing.

- (a) *Purpose.* The procedure of this section is established to integrate properly the conditional use with other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure:
- (1) *Application.* An application shall be made by the property owner and filed with the planning department, upon forms prescribed for that purpose, accompanied with the appropriate fee established by the city council to defray processing costs. The application shall be accompanied by a graphic representation showing the location and proposed use of the site, along with such other descriptive material necessary for decision-making. Such may include, but not be limited to, preliminary site plans showing proposed uses and structures; proposed ingress and egress to the site, including adjacent streets; proposed off-street parking and landscaping; lighting and signage; a preliminary plan for provision of sanitation and drainage facilities; and proximity of adjacent uses and buildings.
 - a. Each application shall be verified by at least one of the owners of the property proposed to be changed, attesting to the truth and correctness of all facts and information presented with the application.
 - b. Applicants should follow the Community Development Planning Calendar as available on the official city website or through the planning office for the city. Items requiring public hearing must follow the official planning calendar as well. Applicants who wish to be heard during the planning commission monthly work session must request in writing to the planning

coordinator at least ten days prior to the planning commission work session to be placed for consideration.

(2) *Notice.*

- a. Upon determining that an application is proper and complete, the planning coordinator shall ensure that the matter is set for public hearing before the planning commission. The planning department shall be responsible for ensuring that, pursuant to law, at least 15 days' notice of the time, place, and subject of such hearing is published in a newspaper of general circulation in the city.
- b. The applicant shall present evidence to the planning coordinator, at least ten days prior to the required public hearing, that all property owners within 300 feet of the boundaries of the subject property have been notified of the proposed use, and of the time, date, and place of the hearing. Such evidence shall consist of postmarked, certified receipts and/or return receipts and/or dated, signed acknowledgments of receipt of notification; and shall be accompanied by a plat map showing the location of those properties, the owners of which the applicant certifies have been so notified. A form letter for notice to surrounding property owners may be obtained by applicant from the planning department to help assure conformity.

(3) *Planning commission review and action.*

- a. The planning commission shall review conditional use permit applications at its regularly scheduled monthly meeting, at which time interested persons may appear at the required public hearing and offer information in support of or against the proposed conditional use. Following the public hearing, the commission may approve the application as presented, approve it with conditions, table it with cause for not to exceed one month, deny the application, or refer it to the city council for final disposition.
 - b. In approving such conditional uses, the planning commission shall impose such conditions and restrictions upon the premises as it deems necessary to reduce or minimize the adverse effects of the use. Compatibility with surrounding property shall be ensured to the maximum extent practicable. If the planning commission disapproves or denies a conditional use application, the reasons for such action shall be recorded in the minutes of the meeting. If denied, no application for such use shall be permitted involving part of the same property for a period of one year.
 - c. The planning commission shall have final authority except that petitioners or record objectors aggrieved by an action, including any conditions placed upon application approval, by the commission shall file appeals with the city clerk-treasurer. The content of the appeal filing shall consist of:
 1. A cover letter addressed to the mayor and city council setting for the request; and
 2. A copy of the planning commission application indicating the action and properly executed by the staff. This filing shall occur within 30 calendar days of the action by the planning commission. Certified mail notice of the appeal hearing shall be provided not less than ten days prior to the date of the hearing, and the affidavit and other supporting evidence of notice shall be filed not less than five days prior to the date of review. This notice shall be given to all record parties in interest whether for or against the request. The cost of this notice shall be borne by the applicant.
- (b) *Reduction from minimum requirements.* The planning commission or board of zoning adjustment may authorize reduction from minimum requirements of these regulations relating to height, area, setbacks, parking, or landscaping through the variance process.

(Ord. No. 754, § 8-163, 7-6-2006)

Sec. 16-172. - Effect of approval.

- (a) No certificate of occupancy shall be issued for any building or structure not in conformance with the site plan and all other conditions imposed in granting a conditional use permit. The construction, location, use, or operation of all land and structures with the site shall be in accordance with all conditions and limitations set forth in the approval. No structure, use or other element of any approved site plan shall be eliminated, significantly altered, or provided in another manner unless an amendment to the conditional use is approved. The procedure for amending a conditional use permit shall be the same as required for the original approval.
- (b) Substantial work or construction under a conditional use permit must be commenced within one year, or the permit shall terminate.
- (c) Conditional use permits shall be valid for an unlimited period unless a lesser period shall be provided in a particular permit. Upon the expiration of the time limit specified in the particular permit, the property owner may request that the permit be reviewed by the planning commission, which may extend it for an unlimited period or for an additional period of years.
- (d) Once any portion of the conditional use permit authorization is utilized, all such conditions pertaining to such authorization shall become immediately operative. All conditions relating to or limiting the use, status, or operation of the development, after issuance of an occupancy permit, shall be complied with by the applicant or his successors or assigns. Failure to do so shall constitute a violation of these regulations, and cause for revocation of the conditional use authorization.

(Ord. No. 754, § 8-164, 7-6-2006)

Secs. 16-173—16-197. - Reserved.

DIVISION 6. - ACCESSORY USES

Sec. 16-198. - General description.

An accessory building is a subordinate building or a portion of the principal building, the use of which is customarily incidental to that of the dominant use of the principal building or land and located upon the same lot therewith. Subject to limitations herein, accessory buildings and uses are permitted in all zones.

(Ord. No. 754, § 8-171, 7-6-2006)

Sec. 16-199. - Location requirements and standards.

- (a) An accessory building shall be constructed of materials so as to appear similar to the primary structure, shall not be located within a required street (front or street side) setback; shall be subject to the side setback standards of the underlying zoning district; shall be located to the rear of the primary structure (residence) and may not be located on lots without primary, dwelling structures; shall be set back at least seven and one-half feet from a rear lot line; shall not be located within any public easement or over any known utilities or septic system lines; shall not block drainage or impede surface water flow; and shall not occupy more than ten percent of the lot area, or more of the lot than is covered by the principal use, whichever results in less lot coverage. Accessory buildings shall not exceed the floor area of the principal use. Unless otherwise provided herein, and provided site visibility is not obstructed, signs, fences and walls shall be allowed within setbacks. Only one accessory building shall be permitted on any lot, and the accessory building must be totally enclosed (no "pole barn" or other open buildings are permitted).
- (b) An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building, and shall comply in all respects with the requirements applicable to the principal building; provided that detached, open-sided carports may be located in the side yard, no closer to the front lot line than the front building line of the principal building, and provided required side setbacks are met. Unless attached to the principal structure, accessory buildings shall be located

at least ten feet from any other structure. The architecture, building materials, color schemes and roof slopes should match the primary building, unless primary structure is nonconforming, then accessory structure should conform to code.

- (c) With regard to height limitations, accessory structures in residential districts shall not exceed 25 feet in height or the height of the principal structure on the lot.

(Ord. No. 754, § 8-172, 7-6-2006; Ord. No. 974, § 2, 6-21-2016)

Sec. 16-200. - Residential accessory uses.

Residential accessory uses shall include the following accessory uses, activities, facilities, and structures: accessory dwelling units (subject to limitations outlined in subsection (1) of this section); fences and walls; garages, carports, and off-street parking and loading areas; gardens; gates and guard houses; home occupations (subject to limitations and requirements of subsection (2) of this section); playhouses, patios, cabanas, porches, gazebos and household storage buildings; radio and television receiving antennas; recreational and play facilities for residents; storm and fallout shelters; and other necessary and customary uses determined to be appropriate, incidental, and subordinate to the principal use on the lot.

- (1) *Accessory dwelling unit.* Accessory dwelling units may be allowed as a conditional use in R-1 residential districts, provided that the dwelling unit is used to house immediate family members or employees who work on site. Accessory dwelling units shall not be used for general rental or commercial purposes.
- (2) *Home occupations permitted.* A home occupation shall be allowed as an accessory use in residential districts subject to compliance with the following requirements, which are intended to balance protection of residential character, with enabling residents to work from home:
 - a. The home office or business is clearly secondary to the use of the dwelling as a residence and does not change the residential character or appearance of the dwelling or lot in any visible manner.
 - b. The work done in the home office or business creates no objectionable odor, noticeable vibration, offensive noise that increases a level of ambient sound at the property lines.
 - c. The home office or business does not involve the external display of goods or services, and does not cause unsightly conditions or waste visible from off the property.
 - d. The home office or business does not cause interference with radio or television reception in the vicinity.
 - e. Permitted home occupations shall not routinely include the employment of any persons not residing on the premises in the performance of the occupation.
 - f. A home occupation shall be carried on wholly within the principal residential structure.
 - g. The home office or business occupies no more than 25 percent of the total floor area of the residence.
 - h. There shall be no external alteration of the dwelling, nor storage of supplies or equipment outside.
 - i. Not more than one truck of not more than 1½-ton capacity and no semi-trailers, incidental to the home occupation, shall be kept on the premises.
 - j. Parking to serve a home occupation shall be provided off-street, and no such parking shall be permitted in a required setback, other than in a driveway. In no event shall yard areas be converted to off-street parking to serve a home occupation.

- (3) *Garage sales and yard sales.* Garage sales, yard sales and rummage sales, which are all included under the term "garage sales" are permitted in any zoning district subject to the following conditions:
- a. *Reserved.*
 - b. *Reserved.*
 - c. *Reserved.*
 - d. *Signs.* Two on-site and three off-site temporary signs are allowed to be posted; however, posting may not occur more than two days before the sale begins. Each sign shall not exceed 4½ square feet in area. The off-site signs shall include the address and date of sale. All signs shall be removed by 8:00 a.m. on the day following the sale.
 - e. *Collection fee.* Any such signs not so removed the following day may be removed by city staff and for any such sign, a collection fee as currently established or as hereafter adopted by resolution of the city council from time to time shall be imposed.
 - f. *Application.* Application for a garage sale permit should be made to city administration offices as designated by the mayor. The applicant shall be required to provide the information necessary for the enforcement of these provisions. A permit shall be issued by city administration office subject to the conditions described in this subsection after payment of a fee as determined by the city.
 - g. *Property restrictions.* The sale must be conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.

(Ord. No. 522, § 1, 2-15-2000; Ord. No. 754, § 8-173, 7-6-2006; [Ord. No. 1051, § 1, 5-19-2020](#))

Sec. 16-201. - Nonresidential accessory uses.

Nonresidential accessory uses are allowed only in association with permitted, nonresidential principal uses and shall include, but not be limited to, the accessory uses, activities, facilities, and structures enumerated in this section. Such uses shall not be allowed if such would cause or increase parking nonconformity for the principal use. Such use may also necessitate additional required parking because of its own nature or character. Accessory uses shall not occupy required parking areas, or off-street parking areas (spaces or aisles) approved as part of a site plan.

- (1) Cafeterias, dining halls and similar food services when operated primarily for the convenience of employees, residents, clients, or visitors to the principal use.
- (2) Dwelling units, other than mobile homes, when used or intended to be used for security or maintenance personnel.
- (3) Guard houses, gates, fences and walls.
- (4) Offices for allowed business and industrial uses when the office is located on the same site as the principal use.
- (5) Parking garages, and off-street parking and loading facilities.
- (6) Radio and television receiving antennas.
- (7) Restaurants, newsstands, gift shops, swimming pools, tennis courts, workout rooms, and playgrounds.
- (8) Club and lounges when in a permitted hotel, motel, or office building.
- (9) Sale of goods produced as a part of allowed industrial activities when on the same site as the principal industrial use.
- (10) The storage of merchandise when located within the same building as the principal business.

- (11) On-premises commercial, bulletin, nameplate, and real estate signs, provided such are non-flashing.
- (12) Other necessary and customary uses determined to be appropriate, incidental and subordinate to the principal use on the lot.

(Ord. No. 754, § 8-174, 7-6-2006)

Secs. 16-202—16-225. - Reserved.

DIVISION 7. - SPECIAL CONDITIONS APPLICABLE TO CERTAIN USES

Sec. 16-226. - General requirement.

Uses permitted, or those permitted subject to conditional use approval, shall be subject to the requirements of the district provisions as supplemented or modified by this chapter.

(Ord. No. 754, § 8-181, 7-6-2006)

Sec. 16-227. - Floodplain development.

- (a) The designated floodplain area is inclusive of all land within the city subject to inundation by floodwater. The source of this delineation shall be the Federal Emergency Management Agency's scientific and engineering report entitled: The Flood Insurance Study for Benton County, Arkansas, and Incorporated Areas, including the flood insurance rate maps for the city.
- (b) The uses of and/or development of land within the designated floodplain area shall be only those uses and structures permitted in the specific district regulations for the zone in which the proposed use and/or development is to be located. For the purposes of administration and review of applications for the use and/or development of land within designated floodplain areas, the city's flood damage prevention code, as found in section 16-686, is deemed the governing regulation.

(Ord. No. 754, § 8-187, 7-6-2006)

Sec. 16-228. - Manufactured housing parks.

Manufactured housing parks may be permitted as conditional uses in MH zoning. The following minimum standards apply to new parks, and expansions of existing parks:

- (1) *Setbacks.* Each manufactured housing unit space shall be set back at least 25 feet from all street rights-of-way, and at least 25 feet from all other lot lines.
- (2) *Minimum lot size and space size.* Manufactured housing parks shall contain at least 6,000 square feet of gross site area for each manufactured housing unit space within the park. Each individual manufactured housing unit space shall be at least 3,000 square feet in area, but shall not occupy more than 50 percent of the lot area.
- (3) *Separation of units.* Each manufactured housing unit and accessory structure shall be separated by at least 20 feet of horizontal distance from all other manufactured housing units and accessory structures.
- (4) *Parking.* At least two paved parking spaces, 180 square feet in area in each space, shall be provided as a part of each manufactured housing unit space. To provide for guests, one additional paved parking space, at least 180 square feet in area, shall be provided for each ten manufactured housing unit spaces. There shall be a minimum of two guest parking spaces. These guest parking spaces shall be centrally located within the park.

- (5) *Driveways.*
 - a. *Length and design.* Internal driveways or courts designed to have one end permanently closed shall be no more than 500 feet long, unless approved by the planning commission, and be readily accessible. A turnaround having an outside roadway diameter of at least 96 feet shall be provided at the closed end of any driveway.
 - b. *Paving.* All internal driveways shall be paved with asphalt. The minimum requirements are six inches of compacted SB2 gravel with three inches of asphalt surface on firm subgrade. Property owners shall be responsible for maintaining paving on all internal driveways.
 - c. *Width.* Drives shall have a minimum paved width of 26 feet. Drives shall be curbed and guttered. One-way drives are specifically prohibited.
- (6) *Refuse collection facilities.* Refuse collection facilities and/or provisions shall be indicated on the site plan, and shall be provided in accordance with city standards. There shall be opaque screening on three sides of dumpsters.
- (7) *Fire protection.* Fire lines and fire hydrants shall be shown on the site plan, and shall be provided in accordance with recommendations of the fire chief. No manufactured housing unit space shall be more than 250 feet from a fire hydrant.
- (8) *Water and wastewater service.* Each manufactured housing unit shall be connected to a public sanitary sewer or other approved system, and a public water supply system.
- (9) *Underground utilities.* All light, gas, water, telephone and cable television distribution and service lines to each individual manufactured housing unit shall be placed underground and conform to all state and local codes and regulations.
- (10) *Inspections.* It shall be the duty of the code enforcement officer to make an annual inspection of each approved manufactured housing park, and present to the park owner and unit owner, a written list of existing violations, should there be any.

(Ord. No. 754, § 8-188, 7-6-2006)

Sec. 16-229. - Manufactured housing units—Permitted use.

Manufactured housing units—those that do not meet the definition of manufactured housing unit, residential design—shall be considered permitted uses only in manufactured housing parks.

(Ord. No. 754, § 8-189, 7-6-2006)

Sec. 16-230. - Same—Residential design.

Compliance with all of the standards of this section is required in order for a manufactured housing unit to be classified as a residential design, manufactured housing unit.

- (1) *Size.*
 - a. The minimum width of a residential design, manufactured housing unit shall be 24 feet; with width measured perpendicular to the longest axis at the narrowest part.
 - b. The length of a residential design, manufactured housing unit shall not exceed four times its width, with length measured along the longest axis.
 - c. A residential design, manufactured housing unit shall have a minimum area of 1,200 square feet (enclosed and heated living area).
- (2) *Roof.*

- a. *Pitch.* The roof must be predominantly double-pitched and have a minimum vertical rise of four inches for every 12 inches of horizontal run.
 - b. *Materials.* The roof must be covered with material that is customarily used on site-built housing units. Customary materials include asphalt composition or fiberglass shingles.
 - c. *Eaves.* The roof shall have a minimum eave projection and roof overhang of ten inches, which may include a gutter.
- (3) *Siding.*
- a. *Materials.* Exterior siding must be of a material customarily used on site-built housing units. Customary materials include wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials. Customary materials do not include smooth, ribbed or corrugated metal or plastic panels or material that has a high gloss finish.
 - b. *Design and placement.* Siding material shall extend below the top of the foundation or curtain wall.
- (4) *Installation of unit.*
- a. *Guidelines.* The unit shall be installed in accordance with the recommended installation procedures of the manufacturer, and the standards established by the International Building Code, as adopted by the state, as well as those established by the Arkansas Manufactured Home Commission.
 - b. *Foundation.* A continuous, permanent concrete or masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, which may include walkout basements and garages, shall be installed under the perimeter of the unit; also in accordance with the above referenced procedures.
- (5) *Entrance landing area.* At the main entrance door to the unit, there shall be a landing that is a minimum of five square feet, constructed in accordance with building code requirements.
- (6) *Transport equipment.* All running gear, tongues, axles, and wheels must be removed at the time of installation of the unit on the lot.
- (7) *Finished floor elevation.* The finished floor of the unit shall meet the manufacturer's specifications unless the unit is located in a floodplain; in which case floodplain regulations shall rule.
- (8) *Additions.* Attached additions and detached garages shall comply with the building code, and floodplain regulations if applicable. All standards of this section shall apply to such additions and garages.

(Ord. No. 754, § 8-190, 7-6-2006)

Secs. 16-231—16-253. - Reserved.

DIVISION 8. - GENERAL STANDARDS

Sec. 16-254. - Off-street parking and loading.

- (a) *Applicability.* Off-street parking and loading shall be provided in accordance with the regulations of this section for all new development, and for any existing development that is altered in a way that enlarges or increases capacity by adding or creating dwelling units, guest rooms, floor area or seats.
- (b) *Minimum requirements.*
 - (1) *Off-street parking schedule.* Off-street parking spaces shall be provided in accordance with the following off-street parking schedule ("Schedule A"), provided that there shall be no written

minimum off-street parking requirement for uses located in the TC district. Parking requirements in the TC district will be determined in the planning process for each development.

- a. The number of parking spaces required for a use not listed herein shall be the same as for a similar use that is listed. When the required number of spaces cannot be ascertained by this method, or if the applicant and the city staff cannot agree, the matter shall be submitted for planning commission determination.
- b. Such determination shall be subject to appeal to the city council.

SCHEDULE A	
OFF-STREET PARKING SCHEDULE	
USE	NUMBER OF PARKING SPACES REQUIRED
Residential Uses	
Single-family detached	2 per dwelling unit
Single-family attached	2 per dwelling unit
Duplex	2 per dwelling unit
Multifamily	1.25 per dwelling unit
Manufactured housing (all)	2 per dwelling unit
Manufactured housing park	2 per unit, plus 1 for each 10 units
Zero lot line single-family	2 per dwelling unit
Civic and Commercial Uses	
Animal care, general	1 per 400 square feet
Animal care, limited	1 per 300 square feet
Auditorium, arena, theater	1 for each 4 seats, based on maximum capacity
Bank or financial institution	1 per 300 square feet

Bed and breakfast	2 per building, plus 1 per guestroom
Church	1 for each 4 seats in the sanctuary
College or university	1 per 300 square feet, or 1 for each 2 students, whichever is greater
Communication tower	1 space (plus office space, if on site)
Convenience store	1 per 200 square feet
Day care, limited or general	1 per employee and/or attendant, plus 2 spaces
Funeral home	1 for each 4 chapel seats, plus 1 per employee
Government service	1 per 300 square feet
Hospital	1 for each 3 beds, plus 1 for each 3 employees
Hotel or motel	1 per guestroom, plus 1 per 10 guestrooms
Library	1 per 500 square feet
Manufacturing, general	1 per employee (if shift work, based on largest number of employees per shift)
Medical service	6 per doctor or dentist, plus 1 space for each employee
Museum	1 per 500 square feet
Office, general	1 per 300 square feet
Recreation/entertainment, indoor	1 per 400 square feet plus 1 space for each employee
Recreational vehicle park	1 per camping space
Restaurant, fast food	1 per 75 square feet of customer service/dining area; 1 per 200 square feet if no such service/dining area

Restaurant, general	1 per 150 square feet for first 2,500 square feet, plus 1 per 100 square feet over 2,500 square feet
Retail general	1 per 250 square feet
Retail/service, furniture and bulky items	1 per 500 square feet
School, nursery, elementary and middle	1 per staff and employee, plus 1 space per classroom
School, high	1 for each 3 students, plus 1.5 per classroom
Service station	2 per service bay, plus 1 per pump
Vehicle and equipment sales	1 per 750 square feet
Vehicle repair, general or limited	3 per service bay and 1 additional per employee
Vocational school	1 per 3 students, plus 1 per faculty member
Warehouse, residential (mini) storage	1 for each 5 storage bays, or 1 per 1,000 square feet, whichever is greater
Manufacturing	1 per 1,000 square feet
Warehousing	Minimum of 1 per 5,000 square feet, dependant on use and number of employees.

- (2) *Off-street loading schedule.* Off-street loading spaces shall be provided in accordance with the following minimum standards:

OFF-STREET LOADING SCHEDULE	
FLOOR AREA (SQUARE FEET)	MINIMUM OFF-STREET LOADING REQUIREMENT
Retail, commercial, retail service and light industrial uses	

5,000 to 25,000	1
25,001 to 85,000	2
85,001 to 155,000	3
155,001 to 235,000	4
235,001 to 325,000	5
325,001 to 425,000	6
425,001 to 535,000	7
535,001 to 655,000	8
655,001 to 775,000	9
775,001 to 925,000	10
925,001 or more	10, plus one per 200,000 square feet above 925,001
Nursing home, hospital, hotels and institutions	
3,000 to 100,000	1
100,001 to 335,000	2
335,001 to 625,000	3
625,001 to 945,000	4
945,001 or more	5, plus one per 500,000 square feet above 945,001

(c) *Computing parking and loading requirements.*

- (1) *Multiple uses.* Lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all uses.
 - (2) *Fractions.* When measurements of the number of required spaces result in fractions, any fraction of one-half or less shall be disregarded and any fraction of more than one-half shall be rounded upward to the next highest whole number.
 - (3) *Area.* Unless otherwise noted in these provisions, all square footage-based parking and loading standards shall be computed on the basis of gross floor area.
 - (4) *Employees, students and occupant-based standards.* For the purpose of computing parking requirements based on the number of employees, students, residents, or occupants, calculations shall be based on the largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.
 - (5) *Americans with Disabilities Act requirements (ADA).* Pursuant to the federal ADA standards, a portion of the total number of required off-street parking spaces in each off-street parking area shall be specifically designated, located and reserved for use by persons with physical disabilities. Responsibility for compliance with the ADA, in all respects, shall rest with the applicant.
- (d) *Location and design of parking and loading spaces.*
- (1) *On-site.* Except as otherwise specifically provided, required off-street parking and loading spaces shall be located on the same lot as the principal use.
 - (2) *Right-of-way.* Off-street parking spaces shall be prohibited within the public right-of-way; and no portion of the abutting street right-of-way shall, except for the driveway, be paved or used in any manner except as green area.
 - (3) *Setbacks.*
 - a. In all residential zoning districts, required off-street parking shall not be located within a street (front or street side) setback. Parking in excess of the required number of spaces is allowed in the street setback, but not off the driveway, and not in a manner that obstructs sidewalks or visibility.
 - b. Where parking is to be provided in the street setback of a multifamily dwelling, there shall be established a parking setback line of ten feet. The area between the parking setback line and the front lot line shall be prepared and planted with grass, shrubs, trees, or ground cover not inconsistent with other landscaping provisions contained herein, and protected by interior curbing.
 - (4) *Ingress and egress.* Off-street parking and loading spaces shall be designed to permit exiting vehicles to enter the public right-of-way in a forward motion. No off-street parking or loading space shall be allowed that requires vehicles to "back" onto a public right-of-way, except single-family and duplex residential development on local and collector streets.
 - (5) *Surfacing.* All required off-street parking and loading spaces, and the driveways serving off-street parking and loading spaces, shall be paved with asphalt, concrete, or brick; provided driveways serving single-family dwellings shall only be required to be paved the first 100 feet, as measured from the street. The area of a driveway located between the edge of the street and the property line shall also be paved.
 - (6) *Drainage.* All off-street parking and loading areas shall be designed with drainage facilities adequate to dispose of all stormwater, and to not increase the stormwater runoff onto the surface of adjoining properties or streets.
 - (7) *Curbing.* The perimeter of all off-street parking and loading areas and their access drives shall be curbed, with the exception of single-family and duplex residences. Landscape islands and other interior features within parking lots shall also be protected by curbs. In addition, the principal building on the lot shall be protected by curbs and/or raised walkways. Rollover curbs shall not be permitted, and wheel-stops are expressly prohibited as alternatives to meeting curbing

requirements. The area between the curb and the property line, except for the driveways and sidewalks, shall be maintained as green space.

- (8) *Striping.* All off-street parking, other than in single-family residential, shall be striped. Fire lanes shall be marked according to required fire safety laws.
- (9) *Parking space dimensions.* Off-street parking spaces shall contain a minimum width of nine feet and a minimum length of 19 feet.
- (10) *Loading space dimensions.* Off-street loading spaces shall be at least 14 feet by 45 feet in size, with a minimum height clearance of 18 feet.
- (11) *Aisle dimensions.* Drive aisles within off-street parking lots shall comply with the following minimum width requirements:

Parking Angle	One-Way Aisle	Two-Way Aisle
90°	24'	24'
60°	18'	24'
45°	16'	24'
30°	13'	24'

- (12) *Timing of construction.* All required parking and loading spaces, driving aisles, and accessways shall be constructed prior to the issuance of a certificate of occupancy.
 - (13) *Use of parking and loading spaces.* Required off-street parking spaces shall be used solely for the parking of motor vehicles in operating condition, and shall not be used for the storage of vehicles, boats, motor homes, campers, mobile homes, materials, tractor trailers or other temporary storage unless they are located in a designated staging area and are screened, fenced or otherwise fully shielded from public view.
- (e) *Off-site parking.* Required off-street parking shall be located on the same lot as the use it is intended to serve; provided that a portion, not to exceed 25 percent, of the required off-street parking spaces may be located on a remote and separate lot from the lot on which the principal use is located, if the off-site parking complies with the following standards:
- (1) *Ineligible activities.* Off-site parking shall not be used to satisfy the off-street parking standards for residential uses, restaurants, convenience stores, or other convenience-oriented uses.
 - (2) *Location.* Off site parking spaces shall be located no further than 300 feet from the building and uses they are intended to serve unless shuttle service is provided.
 - (3) *Zoning classification.* Off-site parking areas shall require the same or a more intensive zoning classification than that required for the use served.
 - (4) *Agreement for off-site parking.* In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement shall be required. An attested copy of the agreement between the owners of record shall be submitted to the zoning official for recording. In addition, whether under the same ownership or not, a legal document to prevent development of the off-site parking area shall be executed and recorded. Recording of the agreement shall take place before issuance of a building permit for any use to be served by the

off-site parking area; or in the case of an existing building, prior to issuance of a certificate of occupancy.

- (f) *Shared parking.* The planning commission may authorize a reduction in the number of required parking spaces for multiple use developments, and for uses that are located near one another that have different peak parking demands and operating hours. Shared parking shall be subject to the following standards:
- (1) *Location.* Shared off-street parking spaces shall be located no further than 300 feet from the building and uses they are intended to serve unless shuttle service is provided.
 - (2) *Study.* An acceptable parking study may be required which clearly establishes that uses will make use of the shared spaces at different times of the day, week, month, or year.
 - (3) *Agreement.* A shared parking plan shall be enforced through written agreement. Proof of recording of the agreement shall be presented prior to issuance of a building permit.
 - (4) *Revocation of certificate of occupancy.* Failure to comply with the shared parking provisions of this article shall constitute a violation of these regulations, and shall specifically be cause for revocation of a certificate of occupancy.
- (g) *Outdoor parking for storage of boats, trailers, and recreational vehicles.* Boats, trailers and/or recreational vehicles may be parked outdoors on a lot in a residential district provided that:
- (1) The boat, trailer or recreational vehicle is owned and used by a resident of the premises;
 - (2) The boat, trailer and/or recreational vehicles must not be parked on the street;
 - (3) The boat, trailer or recreational vehicle is not parked in the area between the front of the residence and the street or other area between the structure and the street, except for the purpose of loading or unloading during a period of less than eight hours;
 - (4) The boat, trailer or recreational vehicle is not used for living, sleeping or housekeeping purposes, except in temporary circumstances not to exceed two weeks;
 - (5) The boat, trailer or recreational vehicle is currently registered and licensed, as required by state law; and
 - (6) Screening is required on the side lot line of the property in view of the parked boat, trailer or RV. Trees or shrubs of a minimum eight feet high shall extend out to the front setback line.
- (h) *Vehicle stack space for drive-thru facilities.* In addition to meeting the off-street parking requirements of this section, establishments with drive-thru facilities shall comply with the following minimum vehicle stack space standards:
- (1) *Stack space schedule.*
 - a. Fast-food restaurants, 110 feet, as measured from the order station.
 - b. Banks, 70 feet, as measured from the teller drop.
 - c. Automatic car washes, 50 feet, as measured from the entrance.
 - d. Other uses, 30 feet, as measured from the pickup window.
 - (2) *Design and layout.* Vehicle stack spaces shall be subject to the following design and layout standards:
 - a. Stack spaces shall be designed so as not to impede pedestrian access to the building, on and off-site traffic movements, or movements into or out of parking spaces.
 - b. Stack space lanes shall be a minimum of eight feet wide, and shall be separated from other internal driveways with painted lines or curbing.

(Ord. No. 754, § 8-201, 7-6-2006)

Sec. 16-255. - Driveways and access; multifamily and nonresidential uses.

The following standards shall apply to all driveways providing access to multifamily and nonresidential uses.

- (1) *Generally.*
 - a. Access to property shall be allowed only by way of driveways, and no other portion of the lot frontage shall be used for ingress or egress. Continuous curb cuts are prohibited.
 - b. Driveway design shall be such that minimization of interference with through street traffic is achieved, and shall be subject to approval of the city engineer. The types of vehicles that a driveway is intended to serve shall be a prime factor in determining the acceptable radii of driveways.
 - c. Provisions for circulation between adjacent parcels should be provided through coordinated or joint parking system.
- (2) *Driveway spacing; arterial or collector streets.* Direct access to any arterial street shall be limited to the following restrictions:
 - a. *Spacing from signalized intersections.* All driveways providing access to arterial streets shall be constructed so that the point of tangency of the curb return radius closest to a signalized or stop sign-controlled intersection, is at least 120 feet from the perpendicular curb face of the intersecting street. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, the planning commission or board of adjustment may approve a variance request for reduction in spacing as long as the reduction does not result in an unsafe traffic condition.
 - b. *Spacing from other (non-signalized) access points.* All driveways providing access to arterial streets shall be constructed so that the point of tangency of the curb return radius closest to any non-signalized street or driveway intersection, is at least 80 feet from the perpendicular curb face of the intersecting street or driveway. In the event that this standard cannot be met because of an unusually narrow or shallow lot size, the board of adjustment may approve a variance request for a reduction in spacing as long as the reduction does not result in an unsafe traffic condition.
 - c. *Residential driveways prohibited.* In residential subdivisions approved after the date of this chapter, residential driveways will not be permitted on collector or arterial streets.
- (3) *Driveways per parcel.*
 - a. At least one driveway shall be required for any lot. However, shared driveways shall be recommended for lots that have less than 150 feet of frontage.
 - b. Driveways shall be located a minimum of ten feet from the side property lines. A separation of at least 20 feet is required between the driveways on one lot and the driveways on the adjacent lots. Driveways on the same lot shall be no closer than 50 feet to each other.
 - c. Driveways on corner lots shall be located as far away from the intersection as possible. In no case shall a driveway be installed closer than five feet to the beginning of the curb radius.
 - d. *Ingress/egress driveway width.* The width of the driveway throat shall not exceed 40 feet in width. Driveway lanes shall be a minimum of 13 feet in width and shall not have more than three lanes in one entrance/exit.

(Ord. No. 754, § 8-202, 7-6-2006)

Sec. 16-256. - Landscaping and screening.

- (a) *Purpose.* The purpose of this section is to ensure a minimum of open space and green area as an integral part of new development and to protect the health and welfare of citizens through the regulation of landscaping.
- (b) *Goals and objectives.* The goals and objectives of this section are as follows:
 - (1) To save trees on public property from indiscriminate destruction or unnecessary removal.
 - (2) To moderate the effects of sun, wind, and temperature changes.
 - (3) To filter pollutants from the air and release oxygen.
 - (4) To stabilize and prevent erosion.
 - (5) To preserve desirable trees.
- (c) *Applicability.* The requirements of this section shall apply to all public, private and institutional developments, approved after the date this chapter is adopted with the following exceptions:
 - (1) Previously approved developments which have been given a permit to begin building construction.
 - (2) Additions to existing structures that are under ten percent of the gross floor area of the building or 2,500 square feet, whichever is less.
- (d) *Submittal.* The following information is required on landscape plans:
 - (1) Location, general type, and quality of existing vegetation, including specimen trees;
 - (2) Existing vegetation to be saved;
 - (3) Methods and details for protecting existing vegetation during construction and approved sediment control plan, if available;
 - (4) Locations and labels for all proposed plants;
 - (5) Plant lists or schedules with the botanical and common names, quantity, spacing and size of all proposed landscape material at the time of planting;
 - (6) Location and description of other landscape improvements such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas;
 - (7) City of Lowell's standard planting and installation details to ensure conformance with all required standards; and
 - (8) Guarantee from the developer that all plant materials will be warranted for a period of 24 months from the time of installation. If any of the material should fail to survive during that period, it would be replaced during the appropriate planting season.
- (e) *Street frontage, interior, and perimeter.* Each development is required to address all three areas in the landscaping plan as it pertains to the particular site. The landscaping plan must include plantings and green space along all street rights-of-way, between lots with adjacent parking lots and also within the interior of the parking areas as the requirements apply to the individual site. Plans submitted by the applicant must provide the following:
 - (1) *Landscaped street frontage buffer.*
 - a. The landscaped street buffer serves two primary purposes:
 - 1. When a parking lot is located adjacent to a public right-of-way, a strip of landscaping helps shield projecting headlights that may impair the vision of passing motorists or pedestrians therefore creating a safer environment;
 - 2. It also provides an aesthetically pleasing transition from the public right-of-way to private property.

- b. The site plan for any development, other than those exempt or covered by the overlay district requirements must show a ten-foot wide landscaped street buffer along all public rights-of-way.
- c. One street tree is required for every 50 linear feet of street frontage. Grouping of trees for a naturalistic effect is encouraged and preferred over a linear, evenly spaced row of trees.

(2) *Interior parking lot landscaping requirements.*

- a. The parking lot landscaping requirement serves several purposes:
 - 1. It provides necessary green space to give relief to expansive parking areas with nothing but asphalt; and
 - 2. The trees provide shade and serve as windbreaks. Planting islands can assist with vehicular circulation.
- b. The site plan for any development must show interior parking lot landscaping. A sliding scale to determine the amount of green area per lot has been included in order for the applicant to include these landscaping requirements as an integral part of the site development.

Total Area of Parking Lot	% Total Area of Parking Lot for Interior Planting
3,000—49,999 sq. ft.	8
50,000—149,999 sq. ft.	10
150,000 sq. ft. or larger	15

- c. The total area of parking lot is calculated based on the square footage of all areas within the parking lot's perimeter, including curbing, parking spaces, all interior drive aisles bordered by parking spaces on either side, all interior islands and islands that intrude into parking, and corner islands formed by perpendicular parking bays. No landscaped areas outside the parking lot (including required street frontage and perimeter buffers) may be used to meet the interior planting requirement. The total amount of green space for the interior lot is determined by figuring eight percent, ten percent, or fifteen percent of the total parking lot area as explained above.
- d. Planting islands are required as a part of the green space percentage in the interior parking lot area. The dimensions of a parking island must be a minimum of 18 feet by 19 feet (342 square feet). One parking island is required for every 15 parking spaces determined for that use group from the minimum parking standard identified in the use unit section of the zoning ordinance. If 13 or more spaces remain, an additional parking island is required. The planting islands must be evenly spaced among the parking spaces in the lot and serve as vehicular delineators whenever possible. All planting islands must be protected from vehicular encroachment by curbing or by other approved means if utilizing low impact design strategies. In parking lots over 150,000 square feet, the number of parking islands can be reduced but the total square footage of green space must remain according to the requirements.

- e. Trees are required to be planted in the interior parking area to offer shading from the heat and sun. One tree per for every 342 square feet is required for the interior parking area with the balance planted in grass or other vegetation. These trees must be planted within the island and a four-foot clearance should be left for car doors to open from adjacent parking spaces.
 - f. Plant materials at vehicular entrances should be located so as to maintain safe sight distances and protect from vehicular lubricants or fuels.
- (3) *Perimeter landscaping other than street frontage.* Perimeter landscaping requirements define parking areas and prevent two adjacent lots from becoming one large expanse of paving. At minimum, a ten-foot landscaped strip is required along the side and rear lot lines of a development with one tree per 50 linear feet required along lot lines. Grouping of trees for a naturalistic effect is encouraged and preferred over a linear, evenly spaced row of trees.
- a. The perimeter landscaping requirement does not preclude the need for vehicular access to be provided between lots.
 - b. The ten-foot perimeter strip is required for each development regardless if one is already in place from an adjacent, developed lot.
 - c. No pavement may extend within five feet of the property line on any lot unless it is included with an ingress/egress location.
- (f) *Landscape installation.* Standards have been established for installation of all plant materials within the city. These requirements must be followed in order to receive approval of the site work and certificate of occupancy. The planning director or designee has the authority to deny the issuance of a final occupancy permit until landscaping is installed according to the requirements of this article and to the satisfaction of the site inspector or to cause a method of assurance as outlined in section 16-312(b)(2).
- (g) *Minimum tree and shrub planting requirements.*
- (1) Trees shall not be placed where they interfere with site drainage or where they shall require frequent pruning in order to avoid interference with power lines. A minimum of 70 percent of all required trees shall be shade trees.
 - (2) Immediately upon planting, trees shall be a minimum of eight feet tall and shall have a minimum caliper (widest width of trunk) of 2.5 inches. Mulch should be placed around the base of newly planted trees according to city specifications to avoid erosion and protect the base of the tree.
 - (3) When more than six trees are to be planted to meet the requirements of this article, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted, but one new tree species shall be planted for every six trees required, up to twelve species. The minimum number of species to be planted is listed in the table in this subsection. Species shall be planted in proportion to the required mix. This species mix shall not apply to areas of vegetation required to be preserved by law.

REQUIRED SPECIES MIX			
Req'd # of Trees	Min. # of Species	Req'd # of Trees	Min. # of Species
1-6	1	37-42	7
7-12	2	43-48	8
13-18	3	49-54	9
19-24	4	55-60	10
25-30	5	61-66	11
31-36	6	67+	12

- (4) Hedges, where required, shall be at least 24 inches in height immediately upon planting. Spacing shall be according to the selected plant's mature spread, but shall create a continuous visual screen within three years of planting. Hedge plantings shall be maintained so as not to exceed a height of six feet.
 - (5) Shrubs, where used or required, shall be container-grown nursery stock in a #3 container (minimum) and shall meet the height and spread requirements for its category as established in the most recent version of the American Standards for Nursery Stock.
 - (6) Perennials, where used or required, may be sized in #1 or #2 containers according to the most recent version of the American Standards for Nursery Stock.
- (h) *Preservation of existing trees*
- (1) Every reasonable effort should be made to preserve existing tree canopy on site, using means and methods established using the City of Lowell's standard tree preservation detail.
 - (2) Each preserved tree with a minimum 24" DBH can be counted toward the new tree requirement and is equivalent to 5 new trees.
- (i) *Additional landscape treatment.*
- (1) All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, ground cover, shrubs, or other appropriate landscape treatment. Gravel or other pavement shall not be considered appropriate landscape treatment.
 - (2) Safe sight distances at intersections and points of access must be maintained.
 - (3) Where landscape areas are not curbed, all landscape areas at the front line of off-street parking spaces shall be protected from encroachment or intrusion of vehicles through the use of wheel stops. Wheel stops shall have a minimum height of six inches above finished grade of the parking area. Wheel stops shall be properly anchored and shall be continuously maintained in good condition by the property owner. Wheel stops shall not be placed in locations of anticipated pedestrian traffic.
 - (4) Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for their growth habits. Plants used in the landscape design shall to the greatest extent:
 - a. Be appropriate to the conditions in which they are to be planted;
 - b. Have non-invasive growth habits;
 - c. Encourage low maintenance, high-quality design; and
 - d. Be otherwise consistent with the intent of this section.
 - (5) Replacement requirements for vegetation that is required to be planted or preserved by this chapter shall be replaced with equivalent vegetation if it is not living within 24 months of installation. Preserved trees for which credit was awarded but which subsequently die, shall be replaced by the requisite number of living trees according to the standards set forth in this article.
 - (6) Irrigation systems or plans for irrigation should be shown on the preliminary plat and must be approved by the planning commission. In general, installed irrigation systems will be required when new trees, shrubs or hedges are required.
- (j) *Enforcement and maintenance.* The planning director or designee has the authority to deny the issuance of a final occupancy permit until landscaping is installed according to the requirements of this article and to the satisfaction of the site inspector or to cause a method of assurance as outlined in section 16-312(b)(2). Once approved, the applicant is required to guarantee the plants for 24 months or they must be replaced by the owner. The property owner will maintain all trees and vegetation.
- (k) *Alternative methods of compliance.*

- (1) An application for alternative landscaping schemes is justified only when one or more of the following conditions apply:
 - a. The sites involve space limitation or unusually shaped parcels.
 - b. Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical.
 - c. Due to a change of use of an existing site, the required buffer yard is larger than can be provided.
 - d. Safety considerations require a change.
- (2) The applicant shall describe in a letter to the planning department which of the requirements set forth in the manual will be met with modifications which project conditions justify using alternatives, and how the proposed measures equal or exceed normal compliance.

(l) *List of recommended trees and shrubs.*

- (1) The planning office will maintain a list of recommended and prohibited plant species for use in administering and enforcing the regulations of this chapter. The list is by no means comprehensive and is intended merely to suggest the types of flora which would be appropriate and preferred for screening and shading purposes. Plants are selected for inclusion on these lists according to four principal criteria:
 - a. General suitability for the climate and soil conditions for this area;
 - b. Ease of maintenance;
 - c. Tolerance of city conditions (i.e., power lines, street locations, visual requirements, etc.);
 - d. Availability from area nurseries.
- (2) When selecting new plantings for a particular site, a developer should first consider the type of plants which are thriving on or near that site. However, if an introduced species has been proven highly effective for screening or shading in this area, it too may be proper selection.

(m) *Screening.*

- (1) *Shield against external effects and negative impacts.* Every development shall provide sufficient screening so that neighboring properties are shielded from any adverse external effects of that development and the development is shielded from the negative impacts of adjacent uses such as major streets or railroads.

Table of Screening Between Incompatible Uses					
	Single-Family	Duplex	Multifamily	Commercial	Industrial
Single-family	None	Semi-Opaque	Opaque	Opaque	Opaque
Duplex/Townhouse	Broken	None	Broken	Opaque	Opaque
Multifamily	Opaque	Broken	None	Semi-Opaque	Opaque
Commercial	Opaque	Opaque	SemiOpaque	None	Broken

Industrial	Opaque	Opaque	Opaque	Broken	None
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(2) *Description of screens.* The following three basic types of screen are hereby established and are used as the basis for the table of screening requirements set forth in this subsection (l):

- a. *Opaque screen.* A screen that is opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The portion of intermittent visual obstructions may contain deciduous plants.
- b. *Semi-opaque screen.* A screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The zone of intermittent visual obstruction may contain deciduous plants.
- c. *Broken screen.* A screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a landscaped earth berm, planted vegetation, or existing vegetation. The screen may contain deciduous plants.

(Ord. No. 754, § 8-203, 7-6-2006)

Sec. 16-257. - Corner visibility.

On corner lots at intersecting two-way streets, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and eight feet above curb grade within the triangular area formed by an imaginary line that follows street side property lines, and a line connecting them, 25 feet from their point of intersection. This sight triangle standard may be increased by the city in those instances deemed necessary for promoting traffic safety, and may be lessened at intersections involving one-way streets.

(Ord. No. 754, § 8-204, 7-6-2006)

Sec. 16-258. - Fences.

Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of all fences:

- (1) *Maximum height.* Fences shall not exceed eight feet in height, unless approved by the planning commission. Fencing in the industrial and commercial districts, and around tennis courts and other recreational amenities, shall be exempt from this height limit.
- (2) *Corner visibility.* Fences shall comply with the corner visibility standards of section 16-257.
- (3) *Construction/materials.* Fences in all residential zoning districts shall be constructed so that the horizontal and vertical support posts are inside the fenced area or hidden from view of those outside the fenced area, except in the case of decorative columns or posts. This requirement shall not apply to fences that abut nonresidential zoning districts or in situations where the owner of the lot adjacent to the fence agrees to a plan for placing support posts on the "outside" of the fence. All exposed steel, except galvanized metal, shall have a color finish coat applied to them and be preserved against rust and corrosion.
- (4) *Design and maintenance.* All fences shall be maintained in their original upright condition. Fences designed to be painted or have other surface finishes shall be maintained in their original condition as designed. Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.
- (5) *Barbed and electrified types prohibited.* Barbed wire and electrified fences shall be prohibited on all lots of less than two acres in area.
- (6) *Common subdivision.* Fences within a common subdivision placed along arterial or collector streets shall be coordinated by the developer so that they will be constructed with the same height, spacing pattern, colors and materials.

(Ord. No. 754, § 8-206, 7-6-2006)

Sec. 16-259. - Sidewalks.

- (a) *Required.* Sidewalks shall be required for all developments in accordance with the master street plan and land use plan.
- (b) *Construction standards.* Sidewalks shall be constructed in accordance with all applicable city standards and specifications, and with all applicable ADA (Americans with Disabilities Act) requirements. If detached and set back at least three feet from the back of the curb or pavement, whichever is more, such sidewalks shall have a minimum width of four feet. This specification shall be the city's standard requirement. Exceptions may be made through site plan approval, for a sidewalk to be attached to the curb or be located closer than three feet to the curb, provided such sidewalk shall have a minimum width of six feet.
- (c) *Timing of installation.* Required sidewalks shall be installed prior to occupancy of any structure on that lot or parcel. Sidewalks along sections of green space or common property or easements that will not have a structure shall be installed along with the required street improvements.

(Ord. No. 754, § 8-207, 7-6-2006)

Sec. 16-260. - Drainage and stormwater management.

Adequate provisions for drainage of surface water and stormwater management shall be made for all development and redevelopment. Plans for such, including grading plans, for all commercial and industrial development, and all multifamily developments that contain five units or more, shall be submitted and considered as part of the large scale development approval process. All such plans shall be prepared by a registered professional civil engineer, licensed in the state, and submitted and considered as part of the large scale development approval process. Such plans shall contain adequate and properly designed measures to control erosion and sediment discharge from the construction site, and to prevent water pollution that may result from such discharges and runoff. The provisions of this

section shall also be applicable to all development and redevelopment impacting one acre or more of property, regardless of the type of development or use.

(Ord. No. 754, § 8-208, 7-6-2006)

Sec. 16-261. – Bike Racks.

Bicycle parking shall be provided for any development or redevelopment requiring at least fifteen (15) or more off-street automobile parking spaces. Bicycle parking shall be provided at the following ratio:

- (a) Non-residential development shall provide one (1) bicycle parking rack per twenty (20) automobile parking spaces, with a minimum of one bike rack.
- (b) Multi-family Residential Development. Residential development shall provide at least one (1) bicycle rack per thirty (30) dwelling units. The development shall provide at least one (1) bike rack.
- (c) Bicycle parking shall conform to the Association of Pedestrian and Bicycle Professionals guidelines.

Secs. 16-262—16-283. - Reserved.

DIVISION 9. - BOARD OF ZONING ADJUSTMENT⁴

Footnotes:

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State Law reference— Board of adjustment required, A.C.A. § 14-56-416.

Sec. 16-284. - Creation and composition.

The board of zoning adjustment shall be composed of the planning commission as a whole. Since the BOZA will meet on the same days as the planning commission, and shall be composed of the same members, the meeting pay for the planning commissioners shall not change.

(Ord. No. 754, § 8-221, 7-6-2006; Ord. No. 874, § 2, 8-3-2010; Ord. No. 951, § 1, 11-18-2014)

Sec. 16-285. - Organization.

The board of zoning adjustment shall adopt bylaws necessary to the conduct of its affairs and in keeping with the provisions of these regulations. Meetings shall be held on a regular schedule and at such other times as the board may determine. All meetings shall be open to the public. The board of zoning adjustment shall keep minutes of its vote, indicating such fact, and it shall keep records of its examinations and other official actions, all of which shall be a public record. A quorum of the board shall consist of four members.

(Ord. No. 754, § 8-222, 7-6-2006)

Sec. 16-286. - Powers and duties.

The board of zoning adjustment shall have all the powers and duties prescribed by law and by these regulations, which are more particularly described as follows:

- (1) *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made.
- (2) *Variances.* To authorize upon appeal, in specific cases, such variance from the terms of this zoning article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved.
 - a. A variance from the terms of these zoning regulations, shall not be granted by the board of zoning adjustment unless and until the applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by these zoning regulations to other lands, structures, or buildings in the same district.
 - b. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
 - c. The board of zoning adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.
 - d. The board of zoning adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations, and will not be detrimental to the public safety and welfare.
 - e. In granting any variance, the board of zoning adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.
- (3) *Special exceptions.* In addition to the powers and duties specified in subsections (1) and (2) of this section, the board of zoning adjustment shall also have the following powers and duties to hold public hearings and decide the following special exceptions:
 - a. Interpret zoning district boundaries where uncertainty exists, as to the boundaries of the zoning districts, or when the street or property lines existing on the ground are at variance with those shown on the zoning district map.
 - b. Determine the amount of parking required for a use not listed herein.
 - c. Vary the parking regulations where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by these regulations.
 - d. Permit an addition to a nonconforming structure provided that said addition conforms to all building code requirements, and further provided that the current use of the structure conforms to the zoning district in which it is located.

(Ord. No. 754, § 8-223, 7-6-2006)

Sec. 16-287. - Procedure for application and appeals.

- (a) *Application.* Appeals to the board of zoning adjustment may be taken by any person aggrieved, or by any officer, department, or board of the city affected by, any decision of the administrative official. All appeals and applications made to the board shall be made in writing within 15 days after the decision has been rendered by the administrative official.
- (1) Every appeal or application shall refer to the specific provision of the code involved and shall exactly set forth:
 - a. The interpretation that is claimed;
 - b. The use for which the permit is sought; or
 - c. The details of the variance that is applied for, and the grounds on which it is claimed that the variance should be granted, as the case may be.
 - (2) The appeal or application shall be filed with the officer from whom appeal is taken and with the board. The officer from whom appeal is taken shall forthwith transmit to the board, all papers constituting the record upon which the action appealed from was taken.
- (b) *Public hearing and notice.* The board of zoning adjustment shall fix a reasonable time for the public hearing of an application or appeal, give public notice of the time and place thereof, as well as due notice to the parties in interest, and decide same within a reasonable time.
- (1) Said public notice shall be published at least once not less than seven days preceding the date of such hearing, in a newspaper of general circulation in the city. The public notice shall give the particular location of the property on which the application or appeal is requested, as well as a brief statement of what the application or appeal consists. Evidence of notification of all adjoining property owners shall accompany all applications for variances. Such notification shall include the public notice information described in this subsection, as well as the time and place where the public hearing will be conducted. Public hearings may be adjourned from time to time, and, if the time and place of the adjourned meeting is publicly announced when the adjournment is made, no further notice of such adjourned meeting need be published.
 - (2) At a public hearing, any party may appear in person, or by attorney, architect, engineer, planner or by other designated agent.
- (c) *Effect of appeal.* An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application, and notice to the person from whom the appeal was taken.
- (d) *Time limit on permits.* No order permitting the use of a building or premises, or the alteration or erection of a building, shall be valid for a period longer than 60 days, unless such use is established or the erection or alteration is started within such period, and proceeds to completion in accordance with the terms of a building permit.
- (e) *Appeals from the board.* Any person, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the board of zoning adjustment may seek review by a court of record of such decision, in the manner provided by state law.

(Ord. No. 754, § 8-224, 7-6-2006)

Secs. 16-288—16-307. - Reserved.

DIVISION 10. - ADMINISTRATION AND ENFORCEMENT

Sec. 16-308. - Duties of planning director and code enforcement official.

- (a) *Planning director.* The provisions of these zoning regulations shall be administered by the planning and engineering department under the direction of the planning director, who shall act as an administrative official. The planning director may be provided with the assistance of such other persons or departments as the mayor may direct. It shall be the duty of the planning director to see that these regulations are enforced through the proper legal channels. Appeal from the decision of the planning director may be made to the board of zoning adjustment. The planning director, and his designees, which may include a zoning official and code enforcement officers, are generally empowered to carry out or conduct any activities essential to the proper administration and enforcement of these regulations; said activities to include, but not be limited to, the following:
- (1) *Issuance of permits.* To issue a building permit, and certificate of occupancy when compliance is made with these regulations; to refuse to issue the same in the event of noncompliance; and to give written notice of such refusal and reason thereof to the applicant.
 - (2) *Fee collection.* To cause the collection of the designated fees as set forth in these regulations.
 - (3) *Records maintenance and filing.* To make and to keep all records necessary and appropriate to the office, including records of the issuance and denial of all zoning and building permits, and certificates of occupancy, and the receipt of complaints of violation of these regulations and action taken on the same, and to file such for record.
 - (4) *Inspections.* To inspect any building or land to determine whether violations of these regulations have been committed or exist.
 - (5) *Enforcement.* To enforce these regulations and take all necessary steps to remedy any condition found in violation. The city may enjoin any individual or property owner who is in violation of these regulations to prevent or correct such violation. Any individual aggrieved by a violation of these regulations may request an injunction against any individual or property owner in violation of these regulations, or may mandamus any official to enforce the provisions of these regulations.
 - (6) *Advisements.* To keep the mayor, city council, planning commission, and board of zoning adjustment advised of all matters other than routine that relate to the administration and enforcement of these regulations (A.C.A. § 14-56-421).
- (b) *Code enforcement official.* The city code enforcement official shall have the power to regulate and enforce the provisions of the city code regarding land use. Further, the code enforcement official shall have the authority to develop rules and regulations for the orderly administration and enforcement of the land development code. The code enforcement official shall have the power to appoint an assistant code enforcement official to serve for such periods of time as he shall deem necessary and with the approval of the city council.

(Ord. No. 754, § 8-231, 7-6-2006)

Sec. 16-309. - Specifications for streets.

The following technical code is hereby adopted by reference in order to set minimum standard specifications for streets for the city, save and except the portions thereof as are herein modified or amended, as they were copied herein fully: The City of Lowell Minimum Standard Specifications for Streets.

(Ord. No. 832, § 1, 5-6-2008)

Sec. 16-310. - Building inspector designated to enforce code provisions for streets.

When reference is made within said code to the duties of a certain official named therein, that designated official for the city shall be the building inspector and/or his designee, and shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. Further, three

copies of the code adopted shall be kept at the office of the city recorder and shall be available for inspection by the public during regular business hours.

(Ord. No. 832, § 2, 5-6-2008)

Sec. 16-311. - Building and grading permits.

- (a) *Issuance of permits.* It shall be unlawful to commence the construction, reconstruction, moving, demolition or structural alteration of any building until a building and grading permit have been issued. No building or grading permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of these regulations and other applicable building codes, laws, or regulations. A permit shall also be required for the use or reuse of property, buildings, or structures where building permits are not required. Compliance with paved parking and other site standards shall be achieved as a condition of a change of use for commercial, industrial and multifamily purposes. In addition, a permit evidencing compliance with the provisions of these regulations shall be a prerequisite to the issuance of a city business license.
- (1) All applications for building permits shall be accompanied by a plan drawn to scale, showing the size of the building to be erected and its location on the zoning lot, the location of any existing buildings or structures, location and dimensions of all driveways and parking or loading areas, drainage, landscaping and such other information as may be necessary to provide for the administration of these regulations.
 - (2) Site plans shall be required for all multifamily development proposals, as well as for all new commercial and industrial development and redevelopment. Site plan decisions by the planning commission shall be subject to appeal to the city council.
- (b) *Appeal process.* A person may appeal by petition to the city council following disapproval of a proposed amendment or conditional use by the planning commission. The petitioner must state specifically in writing to the city clerk-treasurer why he considers the planning commission's findings and decisions to be in error. Such appeal shall be filed with the city clerk-treasurer within 15 days from the date of the commission's actions.

(Ord. No. 754, § 8-232, 7-6-2006)

Sec. 16-312. - Certificate of occupancy.

- (a) *Purpose and authority.* Certificates of occupancy are required to ensure that completed structures and the development of property, of which such structures are a part, comply with the provisions of this article, as well as any site plans or conditional use approvals for such structures and development. The building department/building inspector shall have the authority and responsibility to issue and keep records of certificates of occupancy in accordance with the requirements set forth in these regulations, and the building code. A certificate of occupancy must be applied for, and issued by the building official prior to occupancy and use of a structure or premises for any of the following:
- (1) Any new structure.
 - (2) Any addition to an existing nonresidential structure.
 - (3) Any change in building code occupancy or use of a building or premises that involves nonresidential occupancy. (This does not include change of ownership, as long as occupancy and use do not change.)
 - (4) Placement or change in occupancy of any manufactured home on any lot or parcel, regardless of use.

- (b) *Application procedure.* A certificate of occupancy shall be applied for after final inspection and large scale requirements are met, and must be issued before occupancy and permanent connection of utilities to such building.
- (1) The planning director or his designated agent shall inspect the property that is the subject of an application within a reasonable time after a completed application has been filed, and shall issue a certificate of occupancy if the premises and the property comply in all respects with the applicable development regulations in effect for the city. If the premises do not so comply, the planning director shall deny the application in a written notice mailed to the applicant with five days, excluding weekends and holidays, after the inspection of the property, specifying the provisions of which regulation or code the structure or development does not comply.
 - (2) The site inspection shall include all site requirements, including but not limited to paving, landscaping, drainage, etc., as set forth in the plans approved by the planning commission. If construction of items such as landscaping, striping and some drainage issues are not completed per approved plans, a bond, check or letter of credit may be required. The planning director may, at his discretion, accept the bond, check or letter of credit as a method of assurance for completion and may recommend a certificate of occupancy be issued.
- (c) *Contents of application.* Information required for submission to obtain a certificate of occupancy shall include:
- (1) The name of applicant.
 - (2) The nature and extent of the applicant's ownership interest in the subject property.
 - (3) The address of the property for which a certificate is requested.
 - (4) A legal description of the property, the zoning classification for the property, and a statement that the use of the property is allowed or permitted in the zoning classification for the property.
 - (5) A site plan for any new construction (same as required for a building permit) for the structure, or the development of which such structure is a part.
 - (6) Such other information as requested by the building official to ensure conformance with applicable development regulations.

(Ord. No. 754, § 8-233, 7-6-2006)

Sec. 16-313. - Penalty for violation.

- (a) Any person who shall violate any of the provisions of these zoning regulations, or fail to comply thereafter with any of the requirements thereof, or who shall build, alter, move, or occupy any building in violation of any detailed statement or plans submitted and approved hereunder, shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not exceeding \$500.00 or double such sum for each repetition thereof. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed \$250.00 for each day that the same is unlawfully continued. The owner of any building or premises or part thereof where anything in violation of these regulations shall be placed, or shall exist, and any architect, builder, contractor, agent, engineer, person, firm or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense, and upon conviction thereof shall be fined as hereinabove provided.
- (b) Violations of these regulations that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty, however, does not prevent the simultaneous granting of equitable relief in appropriate cases.

(Ord. No. 754, § 8-234, 7-6-2006)

State Law reference— Violations of zoning ordinances, A.C.A. § 14-56-421.

Sec. 16-314. - Amendments.

Two types of amendments to these zoning regulations are recognized, one being a revision in the text provisions, and the other being a change of boundary in a zoning district (a.k.a. a map amendment or rezoning).

- (1) *Text amendments.* Amendments to the text may be initiated by the planning commission, the city council, or by the mayor. Proposed amendments shall be processed in accordance with the procedures set forth in this section.
 - a. *Notice.* The planning director shall be responsible for scheduling a public hearing before the planning commission. He shall prepare the content of a public notice, and ensure that the notice is published in a newspaper of general circulation within the city at least 15 days before the public hearing.
 - b. *Hearing and recommendation by the planning commission.* The planning commission shall conduct a public hearing on the proposed amendment, hearing both the proponents and opponents, if any. Following the public hearing, the commission shall determine its recommendation regarding the proposed amendment, and make such known to the city council.
 - c. *Action by the city council.* After receiving the recommendation of the planning commission, the city council may approve the amendment as submitted; approve a revised version it deems appropriate; return it back to the planning commission for further study and reconsideration; table it; or deny it. If the city council action does not take place within six months after the planning commission's public hearing, the amendment process must begin anew.
- (2) *Change in district boundary.*
 - a. *Generally.* A change in a zoning district boundary, also referred to as a map amendment or a rezoning, may be proposed by the city council, the planning commission, or by a property owner or his legal agent. Such amendments shall be considered in accordance with the procedures set forth in this section.
 1. *Application submittal.* A complete application for a change in a zoning district boundary (or map amendment), hereafter referred to as a rezoning, shall be submitted to the planning coordinator in a form established for that purpose, along with a nonrefundable processing fee as set forth in section 16-315. Applications shall be filed to the planning department no later than 4:00 p.m. on the submission date for items requiring public hearing as set forth in the City of Lowell Planning Calendar. No application shall be processed until the planning coordinator determines that the application is complete, and the required fee has been paid. Applicant shall provide correct legal description to be verified by city planning department and submitted on electronic disc in Word format.
 2. *Notice.* Promptly upon determining that the application is complete, the planning coordinator shall schedule a public hearing date before the planning commission, notify the applicant of the hearing date, and provide at least 15 days' notice of the hearing in a newspaper of general circulation in the city. The notice shall indicate the time and place of the public hearing; give the general location and description of the property, such as the street address and acreage involved; describe the nature, scope and purpose of the application; and indicate where additional information about the application can be obtained.
 - (i) The applicant shall post notice on weatherproof signs provided by the city; place the signs on the property that is the subject of the application at least ten days before the public hearing; and ensure that the signs remain continuously posted until a final decision is made by the city council. At least one sign shall be posted

by the applicant for each 150 feet of street frontage, up to a maximum of four signs. Signs shall be placed along each abutting street in a manner that makes them clearly visible to neighboring residents, and passers-by. There shall be a minimum of one sign along each abutting street.

- (ii) Individual property owners applying for changes to the official zoning map shall present evidence or an affidavit, at least ten days prior to the required public hearing, that all property owners within 300 feet have been notified of the proposed zoning change and of the time, date, and place of the public hearing.
3. *Hearing and recommendation by the planning commission.* The planning commission shall hold a public hearing on the proposed rezoning. At the conclusion of the hearing, and after deliberation, the commission shall recommend approval as submitted; may recommend approval of less area and/or of a lesser intense, but like classification than what was applied for; table with cause, not to exceed one time for consideration at the next meeting; or deny the application.
 4. *Hearing and action by the city council.* After the planning commission recommends approval of an application, the planning coordinator shall be responsible for preparing the appropriate ordinance, and requesting that the city clerk-treasurer place it on the city council agenda. The planning coordinator shall review the proposed rezoning ordinance, prior to its placement on the city council agenda, to verify that the contents of the document and the property description therein, accurately reflect the action taken by the planning commission.
- b. *Appeal process.* A person may appeal by petition to the city council following disapproval of a proposed amendment or conditional use by the planning commission. The petitioner must state specifically in writing to the city clerk-treasurer why he considers the planning commission's findings and decisions to be in error. Such appeal shall be filed with the city clerk-treasurer within 15 days from the date of the commissions actions.
 - c. *Changes allowed.* In considering an application for approval, whether on appeal or not, the city council may reduce the amount of land area included in the application, but not increase it; and may change the requested classification, in whole or in part, to a less intense zoning district classification than was indicated in the planning commission's required public notice.
 - d. *Approval criteria.* The criteria for approval of a rezoning are set out in this section. Not all of the criteria must be given equal consideration by the planning commission or city council in reaching a decision. The criteria to be considered shall include, but not be limited to, the following:
 1. Consistency of the proposal with the purpose of these regulations;
 2. Compatibility of the proposal with the zoning, uses and character of the surrounding area;
 3. Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment;
 4. Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual impairment, odor, noise, light, vibration, hours of use/operation, and any restriction to the normal and customary use of the affected property;
 5. Length of time the subject property has remained vacant as zoned, as well as its zoning at the time of purchase by the applicant; and
 6. Impact of the proposed development on community facilities and services, including those related to utilities, streets drainage, parks, open space, fire, police, and emergency medical services;
 7. Taking the comprehensive plan into consideration as a guideline.

- e. *Successive applications.* In the event that the city council denies an application for a rezoning, a similar application involving any of the property considered in the previous rezoning request shall not be considered by the planning commission for six months from the date of the denial by the city council, unless the planning commission, upon recommendation by the city planner, determines that there is a significant change in the size or scope of the project, or that conditions have changed in the area affected by the proposed rezoning.

(Ord. No. 754, § 8-235, 7-6-2006)

State Law reference— Amendments to zoning ordinances, A.C.A. §§ 14-56-420, 14-56-422.

Sec. 16-315. - Fees.

Before any action shall be taken as provided in these regulations, the applicant shall submit a fee with the application in accordance with the schedule as currently established or as hereafter adopted by resolution of the city council from time to time. Under no condition shall said sum or any part thereof be refunded for failure of said action to be approved by the city.

(Ord. No. 754, § 8-236, 7-6-2006)

Secs. 16-316—16-333. - Reserved.

ARTICLE IV. - MOBILE HOME PARKS

Sec. 16-334. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building official means the building official or his authorized representative thereof charged with the examination and enforcement of these regulations as hereinafter specified.

License means a written license initially issued by the planning commission, to be renewed annually by the building official, allowing a person to operate and maintain a mobile home park under the provisions of this article and regulations issued hereunder.

Mobile home means a transportable, factory-built housing unit, fabricated prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974.

Mobile home lot means a parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

Mobile home park means any plot of ground of at least one acre in size upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located.

Mobile home stand means that part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.

Permit means a written permit issued by the building official permitting the construction, alteration and extension of a mobile home park under the provisions of this article and regulations issued hereunder.

Service building means a structure housing toilet, lavatory and such other facilities as may be required by this article.

Sewer connection means the connection consisting of all pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewerage system serving the mobile home park.

Sewer riser pipe means the portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.

Water connection means the connection consisting of all pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.

Water riser pipe means that portion of the water supply system serving the mobile home park which extends vertically to the ground elevation and terminates at a designated point at each mobile home lot.

(Code 1992, § 10.5-31; Ord. No. 375, § 1, 12-13-1994; Ord. No. 386, §§ 1, 2, 4-11-1995)

Sec. 16-335. - Conformity to city subdivision regulations.

Any person desiring to develop a tract of land for mobile home occupancy may elect to conform to article V of this chapter, pertaining to subdivisions, instead of the provisions of this article; except that if such person elects to conform to this article, sections 16-337 through 16-340 shall be deemed incorporated into said article V of this chapter for all intents and purposes.

(Code 1992, § 10.5-32; Ord. No. 375, § 2, 12-13-1994)

Sec. 16-336. - Permits.

- (a) *Required.* It shall be unlawful for any person to construct, alter or extend a mobile home park within the city limits unless he holds a valid permit issued by the building official in the name of such person for the specific construction, alteration or extension proposed.
- (b) *Application; contents.* All applications for permits shall be made to the planning commission and shall contain the following:
 - (1) The name and address of the applicant.
 - (2) The interest of the applicant in the mobile home park.
 - (3) The location and legal description of the mobile home park.
 - (4) Complete engineering plans and specification of the proposed park showing:
 - a. Area and dimensions of the tract of land;
 - b. The number, location, and size of mobile home lots;
 - c. The location and widths of roadways and walkways;
 - d. The location of service buildings and other proposed structures;
 - e. The location of water and sewer lines and riser pipes;
 - f. The plans and specifications of the water supply, sewer system, and refuse disposal facilities;
 - g. The plans and specifications of all buildings constructed within the mobile home park; and
 - h. The location and details of lighting and electrical systems.
- (c) *Fee.* All applications shall be accompanied by the deposit of a fee as currently established or as hereafter adopted by resolution of the city council from time to time.
- (d) *Issuance upon satisfactory review.* When, upon review of the application, the planning commission is satisfied that the proposed plan meets the requirements of this article and regulations issued hereunder, the building official shall issue a permit.

- (e) *Request for hearing in case of denial.* Any person whose application for a permit under this article has been denied may request and shall be granted a hearing on the matter before the city council under the procedure provided by section 16-339(b).

(Code 1992, § 10.5-33; Ord. No. 375, § 3, 12-13-1994; Ord. No. 386, §§ 2—4, 4-11-1995)

Sec. 16-337. - Licenses.

- (a) *Required.* It shall be unlawful for any person to operate any mobile home park within the city limits unless he holds a valid license issued annually by the planning commission, and renewed annually by the building official, in the name of such person for the specific mobile home park. All applications for licenses shall be made to the building official, who shall issue a license upon compliance by the applicant with provisions of this article and regulations issued hereunder and of other applicable legal requirements.
- (b) *Notice of sale, transfer of ownership.* Every person holding a license shall give notice in writing to the building official within one week after having sold, transferred, given away, or otherwise disposed of interest in or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park. Upon application in writing for transfer of the license and deposit of a fee as currently established or as hereafter adopted by resolution of the city council from time to time, the license shall be transferred if the mobile home park is in compliance with all applicable provisions of this article and regulations issued hereunder.
- (c) *Application; contents.* Applications for original licenses shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by the deposit of a fee as currently established or as hereafter adopted by resolution of the city council from time to time, and shall contain the name and address of the applicant, the location and legal description of the mobile home park, and a site plan of the mobile home park showing all mobile home lots, structures, roads, walkways, and other service facilities.
- (d) *Procedure for renewal.* Applications for renewals of license shall be made in writing by the holders of the licenses, shall be accompanied by the deposit of a fee as currently established or as hereafter adopted by resolution of the city council from time to time, and shall contain any change in the information submitted since the original license was issued or the latest renewal granted.
- (e) *Request for hearing in case of denial.* Any person whose application for a license under this article has been denied may request and shall be granted a hearing on the matter before the city council under the procedure provided by section 16-339(b).
- (f) *Suspension if violations exist; reinspection.* Whenever, upon inspection of any mobile home park, the building official finds that conditions or practices exist which are in violation of any provision of this article or regulations issued hereunder, the building official shall give notice in writing in accordance with section 16-339(a) to the person to whom the license was issued that, unless such conditions or practices are corrected within a reasonable period of time specified in the notice by the building official, the license shall be suspended. At the end of such period, the building official shall reinspect such mobile home park and, if such conditions or practices have not been corrected, he shall suspend the license and give notice in writing of such suspension to the person to whom the license was issued. Upon receipt of notice of such suspension, such person shall cease operation of such mobile home park, except as provided in section 16-339(b).
- (g) *Hearing request upon suspension.* Any person whose license has been suspended, or who has received notice from the building official that his license will be suspended unless certain conditions or practices at the mobile home park are corrected, may request and shall be granted a hearing on the matter before the city council under the procedure provided by section 16-339; provided that when no petition for such hearing shall have been filed within ten days following the day on which notice of suspension was served, such license shall be deemed to have been automatically revoked at the expiration of such ten-day period.

- (h) *Issuance of temporary license.* A temporary license, upon written request therefor, shall be issued by the building official for every mobile home park in existence upon December 13, 1994, permitting the mobile home park to be operated during the period ending 180 days after December 13, 1994, in accordance with such conditions as the planning commission may require.
- (i) *Term, extension of temporary license.* The term of the temporary license shall be extended, upon written request, for not to exceed one additional period of 180 days, if:
 - (1) The licensee shall have filed application for a license in conformity with subsection (c) of this section within 90 days after the effective date of the ordinance from which this article is derived;
 - (2) The plans and specifications accompanying the application for license comply with all provisions of this article and all other applicable ordinances and statutes;
 - (3) The licensee shall have diligently endeavored to make the existing mobile home park conform fully to the plans and specifications submitted with the application; and
 - (4) Failure to make the existing mobile home park conform fully to such plans and specifications shall have been due to causes beyond the control of the licensee.
- (j) *Continued operation of certain mobile home lots; limitation.* Mobile home lots in mobile home parks in existence on December 13, 1994, which have a width or area less than the minimum prescribed in section 16-341(e) may continue in operation, but the mobile home park in which such spaces are located may not expand operations unless the expanded portion of the mobile home park is done in compliance with the provisions of this article.

(Code 1992, § 10.5-34; Ord. No. 375, § 4, 12-13-1994; Ord. No. 386, §§ 2, 5(a), 6, 4-11-1995)

Sec. 16-338. - Inspection.

- (a) The building official is hereby authorized and directed to make such inspections of mobile home parks as are necessary to determine satisfactory compliance with this article and regulations hereunder.
- (b) The building official shall have the power to enter at reasonable times upon any mobile home park for the purpose of inspecting and investigating conditions relating to the enforcement of this article and regulations issued hereunder.
- (c) The building official shall have the power to inspect the register containing a record of all residents of the mobile home park.
- (d) It shall be the duty of the owners of the mobile home parks, or of the person in charge thereof, to give the building official free access to such premises at reasonable times for the purpose of inspection.
- (e) It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of such mobile home park or its premises at reasonable times for the purpose of making sure repairs or alterations as are necessary to effect compliance with this article and regulations issued hereunder, or with any lawful order issued pursuant to the provisions of this order.

(Code 1992, § 10.5-35; Ord. No. 375, § 5, 12-13-1994; Ord. No. 386, § 2, 4-11-1995)

Sec. 16-339. - Notices, hearings and orders.

- (a) Whenever the building official determines that there are reasonable grounds to believe that there has been a violation of any provision of this order, or regulations issued hereunder, the building official shall give notice of such alleged violation to the person to whom the permit or license was issued, as hereinafter provided. Such notice shall:
 - (1) Be in writing;

- (2) Include a statement of the reasons for its issuance;
 - (3) Allow a reasonable time for the performance of any act it requires;
 - (4) Be served upon the owner or his agent, as the case may require; provided that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to his last known address, or when he has been served with such notice by any method authorized or required by the laws of the state;
 - (5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article and regulations issued hereunder.
- (b) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article, or regulation issued hereunder, may request and shall be granted a hearing on the matter before the city council; provided that such person shall file in the office of the city clerk-treasurer a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten days after the day the notice is served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension, except in the case of an order issued under subsection (e) of this section. Upon receipt of such petition, the city council shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten days after the day on which the petition was filed; provided that, upon application of the petitioner, the city council may postpone the date of the hearing for a reasonable time beyond such ten-day period when, in his judgment, the petitioner has submitted good and sufficient reasons for such postponement.
- (c) After such hearing, the city council shall make findings as to compliance with the provisions of this article and regulations issued hereunder and shall issue an order in writing sustaining, modifying or withdrawing the notice which shall be served as provided in subsection (a)(4) of this section. Upon failure to comply with any order sustaining or modifying a notice, the license of the mobile home park affected by the order shall be revoked.
- (d) The proceedings at such hearing, including the findings and decision of the city council, and together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the office of the city clerk-treasurer, but the proceedings need not be transcribed unless judicial review of the decision is sought, as provided by this section. Any person aggrieved by the decision of the city council may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the state.
- (e) Whenever the building official finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency, including the suspension of the permit or license. Notwithstanding any other provisions of this article, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but, upon petition to the city council, shall be afforded a hearing as soon as possible. The provisions of subsections (c) and (d) of this section shall be applicable to such hearing and the order issued thereafter.
- (f) Violations of any provision of this article shall be considered a misdemeanor and, upon conviction thereof, any person violating such provisions may be sentenced in accordance with the limits contained in section 1-8.

(Code 1992, § 10.5-36; Ord. No. 375, § 6, 12-13-1994; Ord. No. 386, §§ 2, 5(b), 7, 4-11-1995)

Sec. 16-340. - Adoption of regulations by city council.

The planning commission is hereby authorized to make and, after public hearing, to adopt such written regulations as may be necessary for the proper enforcement of the provisions of this article. Such regulations shall have the same force and effect as the provisions of this article.

(Code 1992, § 10.5-37; Ord. No. 375, § 7, 12-13-1994; Ord. No. 386, § 8, 4-11-1995)

Sec. 16-341. - Environmental, open space and access requirements.

- (a) *Generally.* Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose person or property to hazards.
- (b) *Soil and ground cover.* Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and eliminating objectionable dust.
- (c) *Site drainage.* The ground surface in all parts of every mobile home shall be graded and equipped to drain all surface water in a safe, efficient manner.
- (d) *Park areas for nonresidential uses.*
 - (1) No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.
 - (2) Nothing contained in this subsection shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.
- (e) *Required separation between mobile homes.*
 - (1) Mobile homes shall be separated from each other and from other buildings and structures by at least 15 feet; provided that mobile homes placed end-to-end may have a clearance of ten feet where opposing rear walls are staggered.
 - (2) An accessory structure which has a horizontal area exceeding 25 square feet, is attached to a mobile home or located within ten feet of its window, and has an opaque top or roof that is higher than the nearest window, shall, for purposes of all separation requirements, be considered to be part of the mobile home.
- (f) *Required recreation areas.*
 - (1) *Alternative No. 1.*
 - a. In all mobile home parks accommodating or designed to accommodate 50 or more persons, there shall be one or more recreation areas which shall be easily accessible to all park residents.
 - b. The size of such recreation areas shall be based upon a minimum of one acre per 100 population. No outdoor recreation area required by this subsection shall contain less than one-half acre.
 - c. Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.
 - (2) *Alternative No. 2.*
 - a. In all parks accommodating or designed to accommodate 25 or more persons, there shall be one or more recreation areas which shall be easily accessible to all park residents.
 - b. The size of such recreation areas shall be based upon a minimum of 250 square feet for each lot. No outdoor recreation area required by this subsection shall contain less than 6,250 square feet.
 - c. Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.

- (3) *Alternative No. 3.* No recreation area requirement exists.
- (g) *Required setbacks, buffer strips and screening.*
- (1) All mobile homes shall be located at least 25 feet from any park property boundary line abutting upon a public street or highway and at least 15 feet from other park property boundary lines.
 - (2) There shall be a minimum distance of ten feet between an individual mobile home and adjoining pavement of a park street or common parking area or other common areas.
 - (3) All mobile home parks located adjacent to industrial or commercial land uses shall be provided with screening, such as fences or natural growth along the property boundary line separating the park and such adjacent nonresidential uses.
- (h) *Park street system.*
- (1) *Generally.* All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Alignment and gradient shall be properly adapted to topography. The planning commission may require dedication of streets within the mobile home parks in such locations as it deems necessary for orderly future development.
 - (2) *Access.* Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of 34 feet.
 - (3) *Internal streets.* Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirement of 27 feet.
 - (4) *Required illumination.* All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:
 - a. All parts of the park system: 0.6 footcandle, with a minimum of 0.3 footcandle.
 - b. Potentially hazardous locations, such as major street intersections and steps or stepped ramps: Individually illuminated, with a minimum of 0.3 footcandle.
 - (5) *Street construction and design standards.* All street construction shall be in conformance with the standards set forth in this chapter.
- (i) *Required off-street parking areas.*
- (1) Off-street parking areas shall be provided in all mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of three car spaces for each mobile home lot.
 - (2) Required car parking spaces shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of 200 feet from the mobile home that it is intended to serve.
- (j) *Walks.*
- (1) *Generally.* All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.
 - (2) *Common walk system.* A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of 3½ feet.

- (3) *Individual walks.* All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum of three feet.
- (k) *Mobile home stands.* The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.
 - (1) The mobile home stand shall not heave, shift, or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.
 - (2) The mobile home stand shall be provided with anchors and tie-downs, such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home.
 - (3) Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and each shall be able to sustain a minimum tensile strength of 2,800 pounds.

(Code 1992, § 10.5-38; Ord. No. 375, § 8, 12-13-1994; Ord. No. 386, § 9, 4-11-1995)

Sec. 16-342. - Water supply.

- (a) *Generally.* An accessible, adequate, safe, and potable supply of water shall be provided in each mobile home park. Connection shall be made to a public water supply of satisfactory quantity, quality, and pressure and its supply used exclusively.
- (b) *Water distribution system.*
 - (1) The water supply system of the mobile home park shall be connected by pipes to all mobile homes, buildings, and other facilities requiring water.
 - (2) All water piping, fixtures and other equipment shall be constructed and maintained in accordance with state and local regulations and requirements and shall be of a type and in locations approved by the state health department.
 - (3) The water piping system shall not be connected with nonpotable or questionable water supplies and shall be protected against the hazards of backflow or back siphonage.
 - (4) The system shall be so designed and maintained as to prove a pressure of not less than 20 pounds per square inch, under normal operating conditions at service buildings and other locations requiring potable water supply.
- (c) *Individual water riser pipes and connections.*
 - (1) Individual water riser pipes shall be located within the confined areas of the mobile home stand at a point where the water connection will approximate a vertical position.
 - (2) Water riser pipes shall extend at least four inches above ground elevation. The pipe shall be at least three-quarter inch. The water outlet shall be capped when a mobile home does not occupy the lot.
 - (3) Adequate provisions shall be made to prevent freezing of services lines, valves and riser pipes and to protect risers from heaving and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.
 - (4) A shutoff valve below the frost line shall be provided near the water riser pipe on each mobile home lot.
- (d) *Underground stop and waste valves.* Underground stop and waste valves shall not be installed on any water system.

(Code 1992, § 10.5-39; Ord. No. 375, § 9, 12-13-1994; Ord. No. 386, §§ 5(c), 10, 4-11-1995)

Sec. 16-343. - Sewerage system.

- (a) *Generally.* An adequate and safe sewerage system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such system shall be designed, constructed and maintained in accordance with state and local laws.
- (b) *Sewer lines.* All sewer lines shall be located in trenches of sufficient depth to be free of breakage from traffic or other movements and shall be separated from the park water supply system by a safe distance. All sewer lines shall be constructed of materials approved by the state health department.
- (c) *Individual sewer connections.*
 - (1) Each mobile home stand shall be provided with at least a four-inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand that the sewer connection to the mobile home drain outlet will approximate a vertical position.
 - (2) The sewer connection shall have a nominal inside diameter of at least three inches, and the slope of any portion thereof shall be not less than one-eighth inch per foot. The sewer connection shall consist of one pipe line only without any branch fittings. All joints shall be watertight.
 - (3) All materials used for sewer connections shall be semirigid, corrosive-resistant, nonabsorbent and durable. The inner surface shall be smooth.
 - (4) Provision shall be made for plugging the sewer riser pipe when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four inches above ground elevation.

(Code 1992, § 10.5-40; Ord. No. 375, § 10, 12-13-1994; Ord. No. 386, §§ 5(d), 11, 4-11-1995)

Sec. 16-344. - Electrical distribution system.

- (a) *Generally.* Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
- (b) *Power distribution lines.*
 - (1) Main power lines not located underground shall be suspended at least 18 feet above the ground. There shall be a minimum horizontal clearance of eight feet between overhead wiring and any mobile home, service building or other structure.
 - (2) All direct burial conductors or cable shall be buried at least 24 inches below the ground surface and shall be insulated and specially designed for the purpose. Such conductors shall be located not less than one foot radial distance from water, sewer, gas or communication lines.
- (c) *Individual electrical connections.*
 - (1) Each mobile home lot shall be provided with a UL-approved disconnecting device and overcurrent protective equipment. The minimum service per outlet shall be 240 volts AC, 100 amperes.
 - (2) Outlet receptacles at each mobile home stand shall be located not more than 25 feet from the overcurrent protective devices in the mobile home and a three-pole, four-wire grounding type shall be used. Receptacles shall be weatherproof construction and configurations shall be in accordance with American Standard Outlet Receptacle C-73.1.
 - (3) The mobile home shall be connected to the outlet receptacle by an approved type of flexible cable with connectors and a male attachment plug.

- (d) *Required grounding.* All exposed non-current-carrying metal parts of mobile homes and all other equipment shall be grounded by means of a UL-approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as an equipment ground for mobile homes or other equipment.

(Code 1992, § 10.5-41; Ord. No. 375, § 11, 12-13-1994; Ord. No. 386, §§ 5(e), 12—14, 4-11-1995)

Sec. 16-345. - Service buildings and other community service facilities.

- (a) *Generally.* The requirement of this section shall apply to service buildings, recreation buildings and other community service facilities, such as management offices, repair shops and storage areas; sanitary facilities; laundry facilities; outdoor recreation areas; and commercial uses supplying essential goods or services for the exclusive use of park occupants.
- (b) *Required community sanitary facilities.* Every park shall be provided with the following emergency sanitary facilities: For each 100 mobile home lots, or fraction part thereof, there shall be one flush toilet and one lavatory for each sex. The building containing such emergency sanitary facilities shall be accessible to all mobile homes.
- (c) *Structural requirements for buildings.*
 - (1) All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.
 - (2) All rooms containing sanitary or laundry facilities shall have sound-resistant walls extending to the ceiling between male and female sanitary facilities, have at least one window or skylight facing directly to the outdoors, and have at least one window which can be easily opened, or a mechanical device which will adequately ventilate the room.
- (d) *Barbecue pits, fireplaces, stoves and incinerators.* Cooking shelters, barbecue pits, fireplaces, woodburning stoves and incinerators shall be so located, constructed, maintained and used as to minimize fire hazards and smoke nuisance both on the property on which used and on neighboring property. No open fire shall be permitted except in facilities provided. No open fires shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

(Code 1992, § 10.5-42; Ord. No. 375, § 12, 12-13-1994; Ord. No. 386, § 5(f), 4-11-1995)

Sec. 16-346. - Refuse handling.

- (a) The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.
- (b) All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located not more than 150 feet from any mobile lot. Containers shall be provided in sufficient number and capacity to properly store all refuse.
- (c) Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.
- (d) All refuse containing garbage shall be collected at least twice weekly. Where suitable collection service is not available from municipal or private agencies, the mobile home park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

(Code 1992, § 10.5-43; Ord. No. 375, § 13, 12-13-1994)

Sec. 16-347. - Insect and rodent control.

- (a) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform to the requirements of the county health department.
- (b) Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
- (c) Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored at least one foot above the ground.
- (d) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
- (e) The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

(Code 1992, § 10.5-44; Ord. No. 375, § 14, 12-13-1994)

Sec. 16-348. - Responsibilities of management, occupants; restrictions on occupancy.

(a) *Responsibilities of park management.*

- (1) The person to whom a license for a mobile home park is issued shall operate the park in compliance with this article and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
- (2) The park management shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article and regulations issued hereunder.
- (3) The park management shall supervise the placement of each mobile home on its mobile home stand, which includes securing its stability and installing all utility connection.
- (4) The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park.

(b) *Responsibilities of park occupants.*

- (1) The park occupant shall comply with all applicable requirements of this article and regulations issued hereunder and shall maintain his mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.
- (2) The park occupant shall be responsible for proper placement of his mobile home on its mobile home stand and proper installation of all utility connections in accordance with the instruction of the park management.

(c) *Restrictions on occupancy.* A mobile home shall not be occupied for dwelling purpose unless it is properly placed on a mobile home stand and connected to water, sewerage and electrical utilities.

(Code 1992, § 10.5-45; Ord. No. 375, § 15, 12-13-1994)

Secs. 16-349—16-369. - Reserved.

ARTICLE V. - SUBDIVISIONS^[5]

Footnotes:

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State Law reference— Subdivision ordinances authorized, A.C.A. § 14-56-417.

DIVISION 1. - GENERALLY

Sec. 16-370. - Purpose; authority; jurisdiction.

- (a) *Purpose.* The purpose of this article is to set forth the procedures, requirements and minimum standards governing the subdivision of land under the jurisdiction of the city planning commission (hereinafter referred to as the "planning commission").
- (b) *Authority.* These subdivision regulations are adopted in accordance with the authority granted by Act 186, 1957 General Assembly of the State of Arkansas (A.C.A. § 14-56-417).
- (c) *Jurisdiction.* The territorial jurisdiction of these regulations includes the land within the corporate limits of the city and that surrounding area within five miles of those corporate limits, except as designated on the planning area map as adopted by the planning commission.

(Code 1992, § 8-401; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-371. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a minor way dedicated for public use for utility easements and vehicular access to the back or the side of properties abutting a street.

Blanket utility easement means the right to make a specific use of the entire property owned by another.

Comprehensive development plan means a planning document established by the planning commission consisting of a land use plan, a master street plan, goals and policies used as a guide for the direction of future growth and the quality of life and development desired by the community for the common good of the public.

Contour means a topographic map line connecting points of equal elevations.

Contour interval means the vertical distance or difference in elevation between contour lines.

Cul-de-sac (dead-end street) means a street having one open end to traffic and being permanently terminated by a vehicular turnaround.

Dedication means land and improvements offered to the city, county, or state and accepted by them for public use, control and maintenance.

Development plan means a drawing showing all proposed improvements to a piece of property, such as streets, parking lots, buildings, drives, signs, utilities, drainage, grading and planting by size and location.

Easement means a grant by the property owner to the public, a corporation, or persons of the use of a definite or defined portion of land for specific purposes.

Enforcement official means the city building inspector, code enforcement officer, or such other person designated by the city council to perform such function.

Improvements means physical changes made to property to prepare it for development, such as, but not limited to, street grading, drainage structures, street surface, sidewalks, curbs, gutters, utility lines, bridges and similar items.

Land use plan means the land use plan that shows the types of land use relationships that are desirable and compatible with the city's intentions for future development. These patterns are not an exact blueprint for the future, but they are a guide to be followed, as closely as possible, when questions come up about approving plans for construction within the city's planning area.

Large-scale development plan means a detailed plan showing all proposed improvements to a piece of property other than a subdivision, as more fully defined in this Code.

Lot means a portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development.

Lot split means a recorded plat prepared for the transfer of property which is split, for the first time, into two or more parcels which are less than five acres, but more than one acre. A lot split includes a vicinity map, parcel description, utility easements, right-of-way or access and public dedications, as required by the planning director or the planning commission.

Master street plan means the plan that identifies and classifies the streets designed to carry traffic throughout the city. The plan is the city's official statement of where future streets should be. The plan is used to establish priorities for street improvements and to coordinate the development of new streets.

Parcel means an area under one ownership.

Plat, final, means a complete and exact subdivision plat, prepared for official recording as required by statute, to define property boundaries and proposed streets and other improvements.

Plat, informal, means a recorded plat prepared for the transfer of property which is split, for the first time, into two or more parcels of five acres or more. An informal plat includes a vicinity map, parcel description, utility easements, right-of-way or access and public dedications, if any.

Plat, preliminary, for a subdivision, means a formal plan, drawn to scale, indicating prominent existing features of a tract and its surroundings and the general layout of the proposed subdivision and shall meet the requirements outlined herein.

Protective covenants means restrictions placed on a deed or property by private agreement between the buyers and sellers of land.

Right-of-way means the land opened, reserved or dedicated for a street, walk, drainage or other public purposes.

Setback lines or *building lines* means a line on a plat generally parallel to the street right-of-way, indicating the limit beyond which buildings or structures may not be erected except as provided in ordinances.

Street means a strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel, which may also be used to provide space for sewers, public utilities, trees, and sidewalks. No changes shall be made to any city street without the approval of the city council.

Street, arterial, means a street or road of considerable continuity which serves or is intended to serve as the principal trafficway between separated areas or districts. Where possible, residential structures should not front on arterial streets. Access to public rights-of-way shall be through local streets interior to the subdivision.

Street, collector, means a street which, in addition to serving abutting properties, intercepts minor streets, connects with community facilities, and carries neighborhood traffic to the major arterial street systems. Where possible, residential structures should not front on collector streets. Access to public rights-of-way shall be through local streets interior to the subdivision.

Street, local, means a street used primarily to provide access to abutting properties.

Subdivision means a division of a lot, tract, or parcel of land into two or more lots, parcels, or tracts.

Technical review committee means a committee of persons representing the technical interest of the city and the city's utility providers.

Townhouses means attached single-family dwellings, which can either be single-story or multistory in height; which are physically attached one to another by common or adjoining walls; which have individual heating, air conditioning, electrical and plumbing systems; which are located on individually platted lots; and which are, or may be, individually owned, or may be rented.

Variances means a modification of the regulations applicable to subdivision or large-scale developments by the planning commission when, due to special conditions, a literal enforcement of the provisions thereof would result in unnecessary hardship to the property owner; provided that the spirit of this Code shall be preserved and substantial justice done.

Waiver means a dispensing with a requirement for the performance of any provisions applicable to subdivisions or large-scale developments upon request to the planning commission with adequate grounds for such relief.

Zero lot line dwellings means detached single-family dwelling units which are located on individually platted lots without a side yard requirement on one side of the lot. The same interior property line cannot be utilized for side yard construction on adjacent lots.

(Code 1992, § 8-402; Ord. No. 470, § 1, 2-10-1998; Ord. No. 566, § 1, 7-10-2001; Ord. No. 974, § 1, 6-21-2016)

Sec. 16-372. - Conformance to official plans.

Any subdivision of land which is covered by these regulations shall conform to the comprehensive development plan and all other official plans and ordinances.

(Code 1992, § 8-403; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-373. – Categories of subdivisions and procedure for subdivision approval.

The following categories and procedures are established for subdivision of land. Under no circumstances may any lot be created which does not have access to a public right-of-way, either by adjacency or dedicated access easement.

- (1) *Lot split*. When a parcel is split for the first time into two or more parcels, and each of the resulting parcels is less than five acres and more than one acre, the land may be subdivided by a lot split plat. Said plat shall provide a vicinity map, legal descriptions of the original parcel and parcels resulting from the lot split, utility easements, rights-of-way and/or access easements, and public dedications, as well as any other requirements noted in the lot split application checklist. Utility access to resulting lots shall remain together to the extent practicable, along with any other requirements deemed necessary by the planning director to provide for orderly development and growth, and meet the goals and purposes of the planning chapter of this Code. The procedure for lot split approval is as follows:

- a. *Predevelopment meeting with general design layout*. The applicant shall consult with the planning staff for assistance before the preparation of the lot split and application submission. At this time, the applicant should provide a preliminary design layout for review with staff. Staff will provide feedback, instructions, and appropriate forms and checklists to guide applicant in the preparation of plats. This will familiarize the applicant with relevant codes and regulations, including but not limited to the master street plan, the land use plan, zoning regulations, and other official plans, policies and public improvements.

the preliminary plat allows the applicant to request construction plan approval and install required improvements. Preliminary plats submitted for approval shall follow the requirements found on the preliminary plat application checklist. The procedure for preliminary plat approval is as follows:

- a. *Predevelopment meeting.* The applicant shall consult with the planning staff for assistance before the preparation of the preliminary plat and application submission. At this time, the applicant should provide a preliminary design layout for review with staff. Staff will provide feedback, instructions, and appropriate forms and checklists to guide applicant in the preparation of plats. This will familiarize the applicant with relevant codes and regulations, including but not limited to the master street plan, the land use plan, zoning regulations, and other official plans, policies and public improvements.
- b. *Application and remission of fees.* The applicant shall submit a complete application package in accordance with the requirements and checklist found on the Preliminary Plat application and remit the associated fees as currently established or as hereafter adopted by resolution of the city council from time to time. When the completed application has been verified and required fees received, the submission shall be placed in the review and approval process according to the submission and review schedule set forth in the City of Lowell Planning Calendar found on the City website.
- c. *Technical review.* The technical review committee will meet the third Wednesday of each month (or as otherwise notified in writing to all persons involved). During the review session, a record will be made of the extent to which the proposed subdivision conforms with the design standards herein, and proposed modifications will be discussed and noted, if necessary, to secure conformance and acceptability of the preliminary plat.
- d. *Planning commission review.* Upon completion of the technical review of the preliminary plat, the applicant will make any necessary revisions required to meet relevant codes and regulations and resubmit revisions according to the schedule established annually as the City of Lowell Planning Calendar found on the City website. This submission of the preliminary plat shall include a copy of the official comments of the technical review committee and a narrative from the subdivider stating how the comments have been addressed in the revised preliminary plat submission.
- e. *Planning commission action.*
 1. The preliminary plat and report from the technical review committee will be forwarded to the planning commission for its next regular meeting. Within 90 days after its first review of the preliminary plat, the planning commission shall indicate in writing its approval, disapproval, or approval with conditions. Failure of the planning commission to act on the preliminary plat within 90 days of its first review of the preliminary plat will be deemed approval of the preliminary plat. Approval, approval with conditions, or disapproval of the preliminary plat by the planning commission shall be noted, both on the preliminary plat and the planning commission records. The planning commission may table the preliminary plat for cause and serve written notice to the developer, in which case the 90-day approval period shall not apply.
 2. The subdivider or his authorized representative, as designated by written authorization, shall appear at all planning commission meetings at which the proposed subdivision will be discussed. Failure to appear shall cause the planning commission to either disapprove or table action on the subdivision. The 90-day approval period will begin on the date of the first planning commission meeting at which the subdivider or authorized representative shall appear.
- f. *Construction plans.* Following approval of the preliminary plat, and before improvements or the final plat are started, the subdivider shall submit five copies of engineering plans and specifications prepared by an engineer registered in the state
 1. These plans shall include, but not be limited to, the following items of work:
 - a. Street plans and profiles;

- b. Specifications;
 - c. Cross sections;
 - d. Grading plan;
 - e. Storm drainage plans and profiles;
 - f. Detailed stormwater design calculations with a narrative report;
 - g. Water distribution plans, including fire protection;
 - h. Sanitary sewer plans and profiles;
 - i. Landscape plan;
 - j. Other items of work accessible to the public, including off-site improvements.
2. These plans shall be reviewed by the city engineer, fire department and the building inspector. Upon acceptance of the construction plans submitted for review, the subdivider may commence construction of the proposed improvements. The design engineer shall follow the construction with periodic inspections to ensure the improvements are completed in accordance with the approved plans and specifications.
 3. If the subdivider declares at the time of preliminary plat submission to develop only a portion of the total area intended for ultimate development, the planning commission shall require preliminary plat and construction plans approval for the total area to ensure compliance with the purpose and intent of these regulations. Upon approval of the preliminary plat, as proposed for phased developments, a final plat shall be required only for the phase portion of the total area intended for present development. Additional final plats will be required as other portions of the area are developed.
 4. The approval of the preliminary plat shall lapse after one year unless work is actively progressing on the installation of the required improvements.
 5. After the preliminary plat is submitted, but before the final plat is approved, the planning commission may require the subdivider to reserve sites, other than street, drainage or utility rights-of-way, within the boundaries of the proposed subdivision which are indicated on an officially adopted plan, for public use, to permit the public board, commission or body having jurisdiction or final responsibility the opportunity to purchase such sites. The site reservation period shall expire at the end of one year if no action is taken. The subdivider, at his option, may provide such areas or may be required to make them available for purchase by the city under statutory procedure. All such areas shall be maintained at the expense of the city or other body which may be involved.
- (4) *Final plat.* The final plat is a complete and exact subdivision plat, prepared for official recording as required by statute to define property boundaries, as well as streets and other required improvements. The final plat is submitted after approval of the preliminary plat and construction of required improvements according to the standards established by all applicable codes and regulations. Final plats submitted for approval shall follow the requirements found on the final plat application checklist. The procedure for final plat approval is as follows:
- a. After the preliminary plat is approved and after engineering plans and specifications are approved, the subdivider shall complete all improvements that are required under these regulations before submitting the final plat. The subdivider shall present the final plat to the city planning commission with an application for approval, along with certificates and other supporting information, according to the submission schedule in the City of Lowell Planning Calendar found on the City website.
 - b. The final plat shall conform substantially with the preliminary plat, as approved. The final plat shall not be considered complete unless it contains all information listed on the final

plat application and checklist. The coordinate system of the final plat shall conform to the coordinates of the city's mapping system.

- c. If serious discrepancies are found, the planning commission may disapprove the final plat and require the improvements to be changed at the subdivider's expense.
- d. The city planning commission shall approve or disapprove the final plat within 90 days after its submission if it has been submitted in acceptable form. If the plat is disapproved, the grounds of disapproval shall be stated on the records of the planning commission. Upon approval, the city planning commission shall submit the plat with required signatures to the city council for acceptance of the streets by ordinance. The proposed ordinance shall be approved by the city attorney.
- e. Failure of the planning commission to act within the 90 days shall be deemed approval of the final plat. A certificate of acceptance of dedication shall be adopted by the city council and affixed to copies of the approved plat before filing and recording. Any existing blanket utility easements shall be released on the final plat. When the plat has been approved by the city council, a signed copy of the plat, with the approval of the city council certified thereon, shall be filed by the administrative assistant with the circuit clerk as the official plat of record. The cost of filing shall be the responsibility of the subdivider. The administrative assistant shall send one copy each to the planning commission, the Northwest Arkansas Regional Planning Commission, the tax assessor, the appropriate water and sewer department, the building inspector, the gas company, the electric company, and the telephone company and shall retain one copy for city records.

(Code 1992, § 8-404; Ord. No. 470, § 1, 2-10-1998; Ord. No. 539, § 1, 8-10-2000; Ord. No. 974, § 2, 6-21-2016)

Sec. 16-374. - Appeals.

When the plat, as submitted by the applicant, is disapproved by the planning commission, the applicant may petition the city council for a review of the action. The council may sustain or reverse the action of the planning commission or refer the plat back to the planning commission.

(Code 1992, § 8-405; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-375. - Required off-site improvements.

- (a) The subdivider shall be required to install off-site improvements, where the need for such improvements is created in whole or in part by the proposed development.
- (b) Any required off-site improvements located inside the city or located outside the city's corporate limits but within the city's planning area shall be installed according to city standards. The subdivider shall be required to bear that portion of the cost of off-site improvements, which bears a rational connection to the needs created by the development.
- (c) At the time the planning commission grants preliminary plat approval, the planning commission shall determine whether the proposed development creates a need for off-site improvement and the portion of the cost of any needed off-site improvements which the subdivider shall be required to bear; provided that portion of the cost outside of the corporate limits but within the city's planning area shall be determined by the county. In determining that portion of the cost of off-site improvements which the subdivider shall be required to bear, the planning commission shall consider the acreage within the proposed development as a percentage of all the area which, when fully developed, will benefit from

the off-site improvements; provided the planning commission may use a different method of measurement if it determines that use of the acreage standard will not result in the subdivider bearing the portion of the cost which bears a rational connection to the needs created by the development, as determined by the planning commission.

- (d) In determining the necessity for off-site improvements, the planning commission shall consider the following:
- (1) When a proposed development has access to paved streets or roads only by way of substandard or unimproved roads or streets leading from the development to the paved streets or roads, the subdivider shall be responsible for contributing his proportionate share of the cost of improving the substandard access roads or streets to existing city or county standards. The subdivider's proportionate share of such costs shall be determined by the planning commission in accordance with the provisions stated above.
 - (2) When a proposed development has direct access to, or fronts on, an existing road or street which is below current standards, the subdivider shall be responsible for contributing his proportionate share of the cost of improving such street or road to existing city or county standards. The planning commission shall determine the subdivider's proportionate share of such costs in accordance with the provisions stated above.
 - (3) Off-site drainage improvements shall be required whenever a proposed development causes the need for such improvements.
 - (4) Other city utilities/infrastructures.

(Code 1992, § 8-406; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-376. - Delayed improvements.

- (a) If the planning commission determines that a needed off-site improvement should not or cannot be built until future development occurs, the subdivider shall pay to the city an amount determined by the planning commission in accordance with the standards prescribed in section 16-375 to be the subdivider's proportionate share of the cost of such off-site improvements as of the date of final plat approval. The city shall deposit any such money received from a subdivider into an interest-bearing escrow account, which shall be held until such time as the off-site improvement is constructed.
- (b) If the off-site improvement is not constructed within five years from the date of the first payment into the escrow account by a subdivider, the planning commission shall hold a public hearing after publishing notice in a newspaper of general circulation. Following the public hearing, the planning commission may:
- (1) Determine that the off-site improvement is still necessary and feasible and can be built within a reasonable time, in which case the escrow account or guarantee shall be continued for a period specified by the planning commission; or
 - (2) Determine that the off-site improvement is not necessary and feasible, or that insufficient development has occurred so as to render the improvement unlikely in the foreseeable future, in which case the planning commission shall recommend that the city refund the money in the escrow account, with accumulated interest, to the existing property owner on a pro-rata basis.

(Code 1992, § 8-407; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-377. - Conditions of acceptance.

- (a) The city shall not have any responsibility with respect to any street or other improvement, notwithstanding the use of the same by the public, unless the street or other improvement shall have been accepted by the city. Prior to requesting final acceptance of streets and sanitary and storm

sewers, the subdivider shall furnish an "as-built" drawing on line, Mylar, or similar reproducible material with a certification by the subdivider's engineer that the improvements were installed in accordance with this Code.

- (b) The city council shall, within 30 days after the public improvements have been offered for dedication to the city council, accept the improvements, provided the improvements have been constructed in accordance with the requirements of the city. The subdivider shall furnish proof that all improvements to be conveyed or dedicated to the city are free of liens and debts.

(Code 1992, § 8-408; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-378. - Development plan for zero lot line or townhouse development.

- (a) Before a building permit can be issued for a zero lot line or a townhouse development, a development plan must be submitted to the planning commission for approval. A proposed development of three or more lots shall be processed as a subdivision.
- (b) In addition to the submittal requirements of a subdivision, the subdivider shall submit the following with the preliminary plat for review by the planning commission:
 - (1) Typical plot plans for each dwelling unit type at a scale of one inch equals 30 feet or larger showing the patios, driveways, parking areas, sidewalks, accessory buildings and structures, utilities lines, and easements.
 - (2) Typical building elevations for each dwelling unit type.
 - (3) The preliminary plat shall indicate the zero lot lines for zero lot line development and access easements.
 - (4) Preliminary ownership and maintenance plans.
- (c) Any screening walls, maintenance/improvement/drainage easement and zero lot lines shall be indicated on the final plat of a zero lot line development when it is submitted to the planning commission for review and approval.
- (d) Any applicant for a development of one or two lots shall submit a survey or a replat by a registered land surveyor, and all exhibits as indicated in subsection (b) of this section. Easements and street rights-of-way conforming to the right-of-way requirement of the master street plan shall be dedicated with certifications required for recording this plat with the circuit clerk of the county.

(Code 1992, § 8-409; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-379. - Review of plot plans by enforcement official for townhouse developments.

After final approval by the planning commission, but before a building permit can be issued, an individual plot plan shall be submitted to the enforcement official for each building in the case of townhouse developments. The enforcement official shall be responsible for reviewing the plot plans to determine if all the provisions of this article, as well as provisions of article III of this chapter, are being met.

(Code 1992, § 8-410; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-380. - Minor changes.

The enforcement official may authorize minor changes in an approved development plan. If a subdivider wishes to make minor changes to an approved development, the changes shall be submitted

to the enforcement official in a form comparing the approved development with the desired changes. Substantial changes from an approved plan will be subject to the same procedure as new submissions.

(Code 1992, § 8-411; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-381. - Variances and waivers.

- (a) *Variances.* If any provisions of these standards are shown by the subdivider to cause undue hardship as they apply to his proposed subdivision, the planning commission may grant a variance to the subdivider from such provisions so that substantial justice may be done and the public interest served; provided that the variance will not have the effect of nullifying the intent and purpose of this article. In granting variances and modifications, the planning commission may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirement so varied or modified.
- (b) *Off-site improvement waivers.* A subdivider may petition the planning commission for a variance of off-site improvement requirements, in whole or in part, on one or more of the following grounds:
 - (1) The city or county has no plans for upgrading the substandard street or road on which off-site improvements are proposed to be to serve the development.
 - (2) The proposed development has primary access to improved streets or roads, the portion of the development which fronts on a substandard street or road is small or remote from anticipated future traffic patterns, and improving the substandard street or road will cause an undue hardship on the subdivider.
 - (3) The subdivider proposes alternate off-site improvements which will protect the health, safety and welfare of persons in the proposed development and the surrounding area and equally benefit such persons.
 - (4) The subdivider does not propose access to the proposed development from an existing substandard street or road and proposes to provide access by way of streets or roads improved to current city or county standards.
- (c) *Authority to grant waiver.* The decision on whether to grant a waiver is at the sole discretion of the planning commission.

(Code 1992, § 8-412; Ord. No. 470, § 1, 2-10-1998)

Secs. 16-382—16-406. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 16-407. - Enforcement.

In order to carry out the purposes of this article and to ensure an orderly program of land development after the effective date of the ordinance from which these regulations are derived:

- (1) No plat of any tract of land within the planning area jurisdiction of the city planning commission shall be approved by the city for acceptance by the county recorder for filing unless the plat has been approved by the planning commission.
- (2) No conveyance by metes and bounds of tracts coming under the definition of a subdivision without compliance with the applicable provisions of this article or amendments thereto shall be permitted. This provision is aimed at preventing any attempt to circumvent these regulations by conveying by metes and bounds without taking the necessary steps for filing an approved plat.

- (3) No dedication of streets shall be accepted by the city unless the use of the adjacent land is shown, if the purpose of opening the street is to make the affected land available for sale as a subdivision. The street may not be accepted until accompanied by the required plat.
- (4) No building permit shall be issued for construction for any building; no person, firm, or corporation shall sell or offer for sale any lot; no water, sewer, gas, or electrical service shall be extended to serve any structure on any lot; nor shall a deed for any land be submitted for acceptance for recording by the circuit clerk, unless:
 - a. The lot, building or structure was established before the adoption of the ordinance from which this division is derived;
 - b. The lot is part of a subdivision or informal plat approved by the planning commission.

(Code 1992, § 8-421; Ord. No. 470, § 1, 2-10-1998)

Sec. 16-408. - Amendments.

For any proposed amendments to these regulations, the planning commission shall hold a public hearing, for which 15 days' advance notice in a local newspaper of general distribution has been published. Following such a hearing, the city council may adopt the amendment or amendments as recommended by the planning commission. In the alternative, the city council may amend these regulations by majority vote.

(Code 1992, § 8-423; Ord. No. 470, § 1, 2-10-1998)

Secs. 16-409—16-429. - Reserved.

DIVISION 3. - GEOMETRIC DESIGN STANDARDS

Sec. 16-430. - Streets.

- (a) *Conformity to the master street plan.* The location and width of all streets and roads shall conform to the official master street plan.
- (b) *Relation to adjoining street system.* The proposed street system shall extend existing streets or projects. They shall be extended at a width no less than the required minimum width.
- (c) *Street elevation.* The planning commission may require, where necessary, profiles and elevations of streets for areas subject to flood. Fill may be used for streets, provided such fill does not unduly increase flood heights. Drainage openings shall be so designed as not to restrict the flow of water and unduly increase flood heights.
- (d) *Street widths.*
 - (1) The minimum width of rights-of-way, measured from lot line to lot line, shall be as shown on the master street plan.
 - (2) Subdivisions that adjoin existing streets shall provide additional right-of-way to meet the minimum width requirements described in subsection (d)(1) of this section.
 - (3) The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.
 - (4) When the subdivision is located on only one side of an existing street, one-half of the required right-of-way, measured from the centerline of the existing right-of-way, shall be provided. In no case shall the resulting right-of-way width be less than 50 feet.

- (e) *Restriction of access.* When a tract fronts on an arterial street or highway, the planning commission may require such lots to be provided with frontage on a marginal access street.
- (f) *Horizontal curves.* Where a deflection angle of more than ten degrees in the alignment of a street occurs, a curve of reasonable long radius shall be introduced. On a street right-of-way 50 feet or more in width, the centerline radius of curvature shall be not less than 300 feet; on other streets, the radius shall be not less than 100 feet.
- (g) *Intersections.* Street intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than 60 degrees. Property line radii at street intersections shall not be less than 20 feet, and where the angle of street intersections is less than 75 degrees, the planning commission may require a greater curb radius.
- (h) *Tangents.* A tangent of at least 100 feet in length shall be introduced between reverse curves on arterial and collector streets.
- (i) *Street jogs.* Street jogs with centerline offsets of less than 125 feet shall not be allowed.
- (j) *Dead-end streets.*
 - (1) Minor terminal streets or courts designed to have one end permanently closed shall be no more than 500 feet long unless necessitated by topography. They shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 100 feet, or the planning commission may approve an alternative design.
 - (2) Where, in the opinion of the planning commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property. Such dead-end streets shall be provided with a temporary turnaround having a roadway diameter equal to the required right-of-way of the street.
- (k) *Private streets and reserve strips.* There shall be no private streets platted in any subdivision. Every lot in subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips controlling access to streets, except where the control of such strips is placed definitely with the community under conditions approved by the planning commission.
- (l) *Street names.* The names of all proposed streets shall conform to article VI of this chapter.
- (m) *Bridges.* Wherever a barrier, such as a drainage ditch, a chasm, a stream, or roadway traverses land which is being developed and/or is suitable for development, the planning commission may require the installation of vehicular and/or foot traffic bridges. Such bridging would serve to connect or allow connection of tracts of developable land and would be required at intervals of not more than one-quarter mile and not less than 900 feet. One or more foot bridges may be required in the interval between the vehicular bridges. Whenever bridges are required within the city's corporate limits, the city shall have the full control of their design and construction.

(Code 1992, § 8-451; Ord. No. 178, § 6.1, 12-11-1979; Ord. No. 399, § 1, 9-26-1995)

Sec. 16-431. - Residential blocks.

- (a) *Length.* Blocks shall not be less than 400 nor more than 800 feet in length, except as the planning commission considers necessary to secure sufficient use of land or desired features of street pattern.
- (b) *Width.* Blocks shall be wide enough to allow two rows of lots, except where reverse frontage on major streets is provided, or where prevented by topographical conditions or size of the property, in which case the planning commission may approve a single row of lots of minimum depth.
- (c) *Crosswalks.* In blocks over 800 feet in length, the planning commission may require one or more public crosswalks of not more than ten feet in width to extend entirely across the block and at locations deemed necessary.

- (d) *Block orientation.* Where a subdivision adjoins a major road, the planning commission may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

(Code 1992, § 8-452; Ord. No. 178, § 6.2, 12-11-1979)

Sec. 16-432. - Lots.

Insofar as practical, side lot lines shall be at right angles to a straight street line or radial to curved street lines.

(Code 1992, § 8-453; Ord. No. 178, § 6.3, 12-11-1979)

Secs. 16-433—16-462. - Reserved.

DIVISION 4. - REQUIRED IMPROVEMENTS

Sec. 16-463. - Approval.

Before final plat approval may be granted by the planning commission, the subdivider shall have installed, in accordance with the requirements of the planning commission, the final improvements, all of which must have prior approval by the planning commission.

(Code 1992, § 8-466; Ord. No. 178, § 7.1, 12-11-1979; Ord. No. 361, § 1, 5-10-1994)

Sec. 16-464. - Water supply.

All subdivision within the city shall connect to an approved water supply system, and all lots within a subdivision shall be provided with connections thereto.

(Code 1992, § 8-468; Ord. No. 178, § 7.2, 12-11-1979)

Sec. 16-465. - Sewage disposal.

- (a) Where a public sanitary sewer is accessible, the subdivider shall connect with such sewer, and each lot within the subdivision shall be provided with a connection thereto. All connections shall be subject to the approval of the city.
- (b) Where a public sanitary sewer is not accessible, the subdivider shall be required to install a community sewage system or make provisions for use of individual sewage disposal systems, all according to state health department standards and regulations.

(Code 1992, § 8-469; Ord. No. 178, § 7.3, 12-11-1979)

Sec. 16-466. - Storm drainage.

An adequate drainage system shall be provided for the proper drainage of all surface water.

(Code 1992, § 8-470; Ord. No. 178, § 7.4, 12-11-1979)

Sec. 16-467. - Street grading, surfacing and curb and gutter.

Streets shall be improved by the subdivider in accordance with established standards as provided in article X of this chapter.

(Code 1992, § 8-471; Ord. No. 178, § 7.5, 12-11-1979; Ord. No. 320, § 3, 4-12-1992)

Sec. 16-468. - Monuments.

- (a) Concrete monuments four inches in diameter (or four inches square) and 36 inches long, with four one-quarter-inch or one one-half-inch metal reinforcing rod the length of the monument, shall be placed with the top flush to the ground at all points of intersection of the boundary of the subdivision, and at the corner of each 40-acre tract within the subdivision.
- (b) One out of each four monuments shall contain a brass plate indicating elevation based on mean sea level. The control to be utilized is that of United States Geological Survey.
- (c) The location of all monuments shall be shown on the final plat.

(Code 1992, § 8-472; Ord. No. 178, § 7.6, 12-11-1979)

Sec. 16-469. - Lot stakes.

Each lot corner shall be provided with a one-half-inch x 30-inch metal stake, accompanied by an area marked with a paint indicating a lot line and lot number on the curb.

(Code 1992, § 8-473; Ord. No. 178, § 7.7, 12-11-1979; Ord. No. 929, § 1, 3-19-2013)

Sec. 16-470. - Streetlights.

At each intersection and along one side of each street at an interval to be determined by the planning commission at preliminary plat review, developers should install one of the streetlight fixture models required by and purchased from the local electric utility servicing the property being developed.

If the developer chooses to use or purchase a streetlight fixture from a source other than the local electric utility servicing the property, the City of Lowell will not pay the monthly power bill for the fixtures used, will not pay any costs or fees to maintain the fixtures used, and will not assume responsibility for monthly power bill, and/or costs and fees to maintain said streetlights in the event the development is foreclosed upon by the financing company or bank, or otherwise sold or transferred to another party or entity.

(Code 1992, § 8-474; Ord. No. 178, § 7.8, 12-11-1979; Ord. No. 904, § 1, 12-13-2011)

Secs. 16-471—16-493. - Reserved.

ARTICLE VI. - STREET NAMES, BUILDING NUMBERS, ETC.

Sec. 16-494. - Purpose.

This article establishes a logical system for assigning street names and address numbers which will assist in locating individual streets, buildings and places in an easy and logical manner and for the protection of public health and safety of all persons living, working, or visiting in the city.

(Code 1992, § 8-601; Ord. No. 248, § 1.1, 8-11-1987)

Sec. 16-495. - Amendments.

On any proposed amendments to this article or to the street address map, the planning commission shall hold a public hearing, a notice of which shall be published in a local newspaper of general distribution at least 15 days prior to the date of the hearing. Following the public hearing, the city council may adopt the amendments as recommended by the planning commission or as determined by a majority vote of the city council.

(Code 1992, § 8-602; Ord. No. 248, § 8, 8-11-1987)

Sec. 16-496. - Enforcement.

The provision of this article shall be administered by the building inspector.

(Code 1992, § 8-603; Ord. No. 248, § 9, 8-11-1987)

Sec. 16-497. - Street address map.

- (a) The official street address map is a part of the ordinance from which this article is derived and shall contain the ordinance number and certifications which appear upon this document. The map shall identify all named streets, numbering centerlines and block numbering grids which specify address number ranges. A typical section of land shall be divided into eight blocks, or grids, north/south and east/west. Each grid interval shall be 660 feet except in nonstandard grids identified on the map. The map shall also have letters at the top and bottom and numbers on the side borders at half mile intervals for reference with the official street name index.
- (b) The official street address map and street name index shall be automatically updated upon final plat approval of any plat or large scale development. Each document shall have a revision block which lists the date and ordinance number of the latest change.

(Code 1992, § 8-605; Ord. No. 248, § 2, 8-11-1987)

Sec. 16-498. - Centerlines.

Monroe Avenue and its extension to the city's east and west planning area boundaries shall be the centerline street for north and south address numbers. Bloomington Boulevard and its extension to the north and south planning area boundaries shall be the centerline for east and west address numbers.

(Code 1992, § 8-606; Ord. No. 248, § 3.1, 8-11-1987)

Sec. 16-499. - Street names.

- (a) For the purposes of this article, the term "street" shall mean all roadways, public and private, open for general public travel. Access drives to apartment and commercial complexes shall not be considered as streets and shall not be named as such, but may be designated as private drives. Proposed streets, which are obviously in alignment with others already existing and named, shall bear the names of existing streets. In no case shall the name for proposed streets duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, place or court. Through its index list of street names on file, the planning commission can assist in avoiding duplication.
- (b) Streets running east and west shall be identified with the suffix "avenue." Streets running north and south shall be identified with the suffix "street."

- (c) Streets which are also state or federal highways will be identified by their local street name followed by their state or federal designation in parenthesis on the official street name and address reference map. For example, "S. Bloomington Boulevard (Ark. 471)."
- (d) Cul-de-sac streets which have only one entrance/exit shall not be called "avenue" or "street," but shall have a suffix name such as "cove, place, or terrace" to indicate their dead-end nature; however, a cul-de-sac which could be considered to be an extension of an existing street or a new street may be allowed to continue the "street" or "avenue" suffix.
- (e) Loop streets are circular or rectangular plan streets which begin at one point and end at another point along a common street and do not connect to any other streets. The street name suffixes on these streets must not be "street" or "avenue" but shall be "loop, circle, court" or other name indicating a closed street layout.
- (f) An official street name index shall be maintained which shall list every named street on the map with an alpha numeric reference to assist users in locating streets on the map.
- (g) All proposed street name changes shall be reviewed for continuity with this article by the street superintendent who shall recommend alternative names when a proposed name duplicates or is so similar to an existing name that confusion could hamper prompt delivery of emergency services. Appeals of street name assignment can be made to the planning commission. The city council shall have the final authority to change any assignment upon an appeal by any affected party.

(Code 1992, § 8-607; Ord. No. 248, §§ 4, 7.2, 8-11-1987; Ord. No. 399, § 1, 9-26-1995; Ord. No. 404, § 2, 10-10-1995)

Sec. 16-500. - Address numbers.

- (a) Address numbers shall be even on the north and west sides of the street and odd on the east and south sides of the street. Numbers shall be assigned each 25 feet of the grid block with the lowest number beginning at the point nearest the grid centerline. Address numbers for property in central areas with no grid shall be assigned in relation to adjacent addressing.
- (b) In new residential subdivisions, each standard sized lot shall be given a preassigned street number by the building inspector upon final plat approval. Address numbers shall be assigned to large lots relative to their capacity to be divided into two or more minimum sized lots for the minimum width allowed by the zoning district. Address numbers shall be assigned to lots in the appropriate odd or even numerical sequence relative to their location, such as 201, 203, 205, etc.
- (c) Address numbers shall be determined by calculation. The distance from the center of the structure to the first grid corner shall be measured to get a location number. The location number is then added to the grid number to get the address. If the grid number is 1200 and the location number is 23 the address is 1223 or 1224 depending upon which side of the street the building is placed.

Location No. = Distance From Grid Corner to Center of Property Divided by 25 feet.

Address = Block No. Plus Location No.

- (d) When street intersections are within 120 feet of a grid line, the number series change shall be made at the intersection to be more logical to the public. When a long grid faces two grids divided by a street, the number series on the grid shall change at the intersecting street so that houses facing each other will have compatible addresses.
- (e) Diagonal streets which run 45 degrees or less from a north/south line will be numbered by the north/south grid, and those more than 45 degrees from the north/south line will be numbered by the east/west grid. Curving streets will be assigned numbers based upon the grid of their greatest length. For example, if the beginning is more south than west of the end, then the north/south grid will be used.

- (f) On loop streets and cul-de-sac streets, address numbering shall begin at the entrance nearest the grid centerline and increase to the opposite end as if the street were in a straight line. Grid number changes will be made every 660 feet with odd and even numbers remaining on the same side of the street as they began.
- (g) Apartment buildings on public streets shall be assigned individual addresses.
- (h) When apartments are arranged along a private street, a sign showing the apartment complex name with the public street address below it must be posted at the entrance. In these instances, each building is lettered A, B, C, etc., but a central postal facility for all apartments must be located so it is readily accessible to a mail carrier from the public street serving the complex. In large apartment complexes where there are multiple buildings along access drives, these drives may be designated by a private drive name with each apartment building assigned a separate address and each apartment unit in the building designated with a number. When units are on multiple floors, ground floor numbers shall be in the 100 series, second floor in the 200 series, etc. Each building shall be served with a separate postal facility.
- (i) Each apartment must be identified on the exterior entrance by number or building letter and number for multiple buildings. The numbers shall be in sequence 1, 2, 3, etc. Apartments in lettered buildings shall have the building letter as part of each apartment number, such as B-210. When units are on multiple floors, ground floor numbers shall be in the 100 series (101, 102, 103, etc.). If a common hallway is used for several apartments, the external hallway entrance to each apartment shall contain a list of the apartments served. When addressing townhouses and other buildings containing units separately owned, each address shall be placed on the principal external entryway to the unit.
- (j) The official address for each apartment on a public street shall be the building address followed by the apartment number, such as "329 Fernway Street, Apt. B." Addresses for units in apartment buildings not on a public street shall include the public street address and the building number with the apartment designation. The official address for each apartment will be the public street address followed by the building letter, a dash, and the apartment number such as, "329 Fernway Street, Apt. C-104."
- (k) Official records of address numbers shall be assigned and maintained by the building inspector. The city council shall have the final authority to change any assignment upon an appeal by any affected party.

(Code 1992, § 8-608; Ord. No. 248, §§ 5, 7.1, 8-11-1987; Ord. No. 399, § 1, 9-26-1995)

Sec. 16-501. - Signs, numbers, and system maintenance.

- (a) Public and private street signs shall be installed at the expense of the original developer and thereafter maintained by the street department.
- (b) Private street signs and private drive signs shall be required. They shall conform to the public street sign standards, except such signs shall have a blue background with white letters.
- (c) Only street name signs which are authorized by the street department shall be installed within the corporate limits. All street name signs, public or private, found not to conform with this article shall be removed by the street department. Nonconforming, damaged, or deteriorated public street signs shall be replaced as soon as practical by the street department.
- (d) Requests for private street signs on existing streets shall be submitted to the city clerk-treasurer. The city clerk-treasurer shall forward authorization to the street department immediately upon completion, after which the street department shall have the sign prepared and installed as soon as possible.
- (e) Address numbers shall be assigned by the city building inspector, shall be installed by the builder before final inspection and shall be the owner's responsibility thereafter.
- (f) Replacement of address numbers is required within 15 days after written notice to the owner by the building inspector. New and replacement numbers must be placed so that they will be clearly visible from the street of primary access to the building.

- (g) Address numbers shall be a minimum of six and five-eighths inches high with black block letters on a white background and shall be visible from the street. Other colors which have sufficient contrast to be read from the street under normal nighttime conditions may be approved by the building inspector. The numbers shall be placed as near as possible to the primary entrance of the building and preferably above the entrance doorway. The location, style, size, and color of the required numbers shall be approved by the building inspector. Appeals concerning numbers shall be made to the city council.
- (h) All buildings more than 100 feet from the street shall be required to have address numbers on the building and a curb sign for ease in emergency service locating.

(Code 1992, § 8-609; Ord. No. 248, § 6, 8-11-1987; Ord. No. 399, § 1, 9-26-1995; Ord. No. 404, § 1, 10-10-1995; Ord. No. 973, § 2, 5-17-2016)

Sec. 16-502. - Appeals.

A person may appeal the provisions of this article to the planning commission. The petition must state specifically in writing to the city clerk-treasurer why he considers the provisions to be in error or to have created a hardship. Such appeal shall be filed with the city clerk-treasurer and a public hearing set in accordance with the provisions of section 16-563(c).

(Code 1992, § 8-610; Ord. No. 399, § 1, 9-26-1995)

Secs. 16-503—16-527. - Reserved.

ARTICLE VII. - SIGNS

DIVISION 1. - GENERALLY

Sec. 16-528. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Area of a sign means the net geometric area enclosed by the perimeter of the sign face, including framework and decorative roofing or other embellishments, but not including the supporting structural foundation which does not form a part of the sign proper or display. Only one face of a double-faced sign shall be considered in determining the sign's surface area.

Banner means a sign made of fabric or any nonrigid material with no enclosing framework.

Billboard means an off-premises sign.

Commercial sign means a sign which directs the attention to a service, product, profession, business, or entertainment conducted, sold, or offered on the same lot.

Company flag means a flag identifying a business or an organization where the flag is displayed.

Construction sign means a sign identifying an architect, contractor, subcontractor, developer, and/or material supplier participating in construction on the property upon which the sign is located.

Digital billboard means an off-premises sign utilizing digital message technology, capable of changing the static message or copy on the sign electronically. A digital billboard may be internally or externally illuminated. Digital billboards shall contain static messages only, and shall not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure. Each static message shall not include flashing or the varying of light intensity. A digital billboard shall not be considered a flashing sign hereunder. Digital billboards shall be subject to the following operating requirements:

- (1) Minimum display time. Each message on the sign must be displayed for a minimum of eight seconds.
- (2) Brightness level. Digital billboards shall not operate at brightness levels of more than three-tenths foot candles above ambient light, as measured using a foot candle meter at a pre-set distance.
- (3) Pre-set distances to measure the foot candles impact vary with the expected viewing distances of each size sign. Measurement distance criteria:

Nominal Face Size Distance to be measured from:

12' × 25'	150'
10'6" × 36'	200'
14' × 48'	250'

Directional sign means any sign of a noncommercial nature which directs the reader to the location of public or educational institutions, historical structures or areas, or public parks or buildings.

Erect means to affix, attach, build, construct, hang, place, or suspend, and includes the painting of a wall sign, excluding the ordinary and routine maintenance of existing signs.

Flashing sign means a sign which contains an intermittent or sequential flashing light source used primarily to attract attention. The term "flashing sign" does not include digital billboards or animated signs or signs which, through reflection of natural or automated signs or signs which, through reflection of natural or automated light sources, create an illusion of flashing, intermittent light or signs using movement or change of lighting to depict actions or signs on which the copy changes automatically or through mechanical means, (e.g., electronic time/temperature displays).

Freestanding sign means a sign supported upon the ground by its own structural foundation and not attached to any building or other object or structure.

Garage/porch/yard sale sign means a sign advertising the sale of goods from residential property.

Government sign means a sign used solely by local, state or federal government or agencies thereof or by any public utility company for the purpose of giving notice of matters of public safety or of governmental concerns.

Height means the vertical distance measured from the highest point of the sign and/or structural foundation to the grade of the adjacent street or of the ground surface beneath the sign, whichever grade is lower.

Illumination sign means any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

Joint identification sign means a sign which serves as a common or collective identification for a group of persons or businesses operating on the same zone lot (e.g., shopping center or business complex, etc.). Such sign may name the persons or businesses included by carry no other advertising matter.

Lease means an agreement by which a property owner conveys, usually for a specified rent, to other persons, permission to erect and maintain an advertising sign upon his property.

Lot means a parcel of land whether described by metes and bounds or as a platted lot.

Nonconforming sign means a sign existing at the effective date of the adoption of the ordinance from this article is derived which could not be built under the terms of this article.

Off-premises sign means a sign which directs attention to, or advertises a business, commodity, service or entertainment or attraction which is sold, offered, produced, manufactured, or furnished elsewhere than upon the same lot as where such sign is located.

On-site sign means a sign which directs attention to, or advertises a business, commodity, service or entertainment or attraction sold, offered, or produced, manufactured, or furnished on the same lot where such sign is located; provided an on-site sign may also display a noncommercial message.

Pennant means triangle pennants or flags on strings; also includes strip pennants, polypennants, slogan pennants, and racetrack starter pennants.

Permittee means the person making application for a sign permit, the owner of the real property where the sign shall be located, the owner of the sign, or the person whose interests are served by the sign.

Platform sign means a single-faced or double-faced sign attached to a supporting base placed on the ground surface.

Political sign means any sign advertising any candidate or any position on an issue upon which the citizens may vote.

Portable sign means any single-faced or double-faced sign that is 55 square feet or less, which is temporary in nature and capable of being easily transported or of being easily changed, moved, or removed from time to time; or any sign mounted on wheels or legs or capable of being so mounted. This includes *frame signs* and *sandwich signs*.

Projecting sign means any sign other than a wall sign which extends from and/or is supported by a wall or roof of a building or other structure.

Real estate sign means a temporary sign placed upon property for the purpose of advertising the availability of said property for sale or lease.

Roof sign means a sign erected, constructed, or maintained on the roof structure or parapet wall of any building.

Sign means any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, pictures, trade names, or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, a service or a commodity or product, which are visible from any public street or right-of-way and designed to attract attention. A sign shall not include such devices located within a building except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant, or insignia of any state, city, or other political unit, or any political, charitable, educational, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event.

Special occasion sign means a sign advertising a special occasion, such as a family reunion, birth of a child, school play, special church event, or similar noncommercial function.

Structural foundation means a structure or supporting member affixed to the premises for the purpose of supporting or displaying a sign but carrying no graphic or communicative symbol.

Temporary sign means any sign not permanently affixed to any real property or appurtenances thereto which by its nature is not to continue in the same place or in the same state; such as a sign designating contractors, architects, and the future use of the premises at construction sites, garage sale signs, political signs, real estate signs, and similar signs.

Traffic/directional sign means a sign bearing only property numbers, post box numbers, names of occupants on the premises or words or symbols guiding traffic or parking on private property and having no message or commercial connotation.

Variance means a grant of relief to a person from the literal provisions of this article in instances where strict enforcement of this article would cause undue hardship due to circumstances unique to the

individual property under consideration. A variance is granted only when it is demonstrated that such action will be in keeping with the spirit and intent of this article. The board of adjustment may impose conditions in the granting of a variance to ensure compliance and to protect adjacent property.

Wall sign means any single surface sign affixed parallel to the wall or painted on or otherwise inscribed on the exterior portion of the wall, and which is parallel to the wall on which it is mounted. Any sign affixed to the sloping surface of a mansard roof shall be considered a wall sign. Any sign that is affixed to the face of a building marquee, building, awning, or a building canopy shall be considered a wall sign.

Windblown sign means any flag, pennant, balloon, spinner, or blimp.

(Code 1992, § 8-652; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(A), 12-21-2004; Ord. No. 948, § 1, 8-19-2014)

Sec. 16-529. - Rules of construction.

For purposes of this article, the following rules of construction shall apply:

- (1) When determining setback, the leading edge of the sign nearest the curb, edge of the street or sidewalk shall be the point from which the setback is determined.
- (2) When determining the maximum height of a sign, the road surface nearest the sign or the average level of terrain adjacent to the sign, whichever is higher, and the uppermost portion of the sign shall be the reference points from which the maximum height is determined.
- (3) When determining the maximum surface area upon which a sign may be displayed or illustrated, the square footage of only one side of both single-faced signs and double-faced signs shall be used, but the total square footage of all sides of triple-faced signs and other multi-faced signs shall be used. Several small signs that are supported by the same structure shall be considered to be one sign for purposes of calculated area.
- (4) When determining the maximum number of signs, those that are supported by the same structure shall be considered to be one sign.

(Code 1992, § 8-653; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(B), 12-21-2004)

Sec. 16-530. - Exemptions.

The provisions of sections 16-592 and 16-620 shall not apply to the following signs, provided that the signs shall be subject to the setback limitation for the district where erected in accordance with section 16-620:

- (1) Bulletin boards not exceeding 16 square feet in surface area for public, charitable, or religious institutions when the bulletin boards are located on the premises of the institution.
- (2) Signs denoting a public, charitable or religious institution and incorporating no further information when located on the premises of the institution.
- (3) Memorial signs or tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed on bronze or other noncombustible material and which contain no advertising material.
- (4) Traffic or other municipal signs, legal notices, railroad crossing signs, warning signs placed by proper authority, and such temporary informational and nonadvertising signs as may be approved by the city building inspector.
- (5) Private traffic directional signs directing traffic movement onto a premises or within any premises.

- (6) All temporary signs, but not portable signs, provided that such signs comply with the requirements of section 16-621.
- (7) Street banners advertising a public entertainment or event, if specially approved by the city council and only for locations and times designated by the city council, during and for 14 days before the event, but to be displayed no more than 48 hours after said event.
- (8) Fuel price informational signs, limited to one sign per gas grade; maximum size to be four square feet.
- (9) Director maps not to exceed 16 square feet.

(Code 1992, § 8-654; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(C), 12-21-2004)

Sec. 16-531. - Prohibited signs.

The following signs shall be unlawful under this article:

- (1) *Unsafe signs.* Any sign found to be unsafe, insecure, or a menace to the public, and which continues in a state of structural, mechanical or cosmetic disrepair for 30 calendar days after the city code enforcement officer gives written notice that it constitutes a safety hazard or is a visual blight or eyesore clearly visible from any public right-of-way, except that any sign which presents a clear and imminent threat to public safety may be summarily removed by the city code enforcement officer, who shall give notice of said action as soon as practicable.
- (2) *Hazardous signs.* Any sign which will hinder the normal flow of pedestrian traffic of which will interfere with or obstruct an adequate and safe line of visual sight along public ways for the motoring public, or at any location where, by reason of the position, shape, or color, it may be confused with any authorized traffic sign, signal, or device; or which uses the words, "STOP," "LOOK," "DRIVE-IN," "DANGER" or any other word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.
- (3) *Abandoned signs.* Any sign now or hereafter existing which advertises a business not conducted, or a product not sold or available, for a period of 60 consecutive days, shall immediately be removed by the sign owner or lessee, or the property owner. This requirement shall not apply where, under the provisions of this article, an existing conforming sign may be altered to advertise a new business which will be in operation on the premises within 60 days. In the event that the sign owner or lessee, or property owner fails to comply with this section, the city code enforcement officer shall issue a written notice to the sign owner and any lessee and to the property owner, which shall state that such sign shall be removed within 30 days. If, after 30 days from issuance of said notice, the sign owner or lessee, or property owner does not remove the sign, the city code enforcement officer is hereby authorized to cause the removal of such sign, and any expense incidental to the removal of such sign shall be charged to the owner of the property upon which the sign is located, and shall constitute a lien upon the property. For purposes of this section, the term "remove" shall mean:
 - a. The sign face, along with the posts, columns, or supports of freestanding signs, shall be taken down and removed from the property.
 - b. The sign face and supporting structures of a projecting, roof, or wall sign shall be taken down from the property.
 - c. The sign face of painted wall signs shall be removed by painting over the wall sign in such a manner as to completely cover and hide from sight the sign in question.
- (4) *Roof signs.* Any sign erected on a roof shall not be permitted.
- (5) *Off-premises signs and outdoor advertising signs.* Off-premises and outdoor advertising signs are prohibited in all areas, except as provided below.

- a. In the event an existed off-premises sign becomes condemned through eminent domain proceedings by AHTD, the sign can be moved to another location on the same parcel with its existing size, height, dimensions, and configuration. Notwithstanding the foregoing, such sign may be relocated and rebuilt as a digital billboard with a single digital or static face size on each side at a face size no greater than 672 square feet (excluding cabinetry and framing or trim), provided that the sign owner shall provide for the display of emergency message alerts on the digital sign faces in accordance with the established protocols of local and state authorities. The sign must be oriented on the same thoroughfare. This relocation will require a sign permit from the city.
- b. In the event an existed off-premises sign becomes condemned through eminent domain proceedings by AHTD and the sign cannot be relocated on the same parcel due to landowner consent, invaluable readability conditions, or insufficient parcel size, the sign, with up to its existing size, height, dimensions, and configuration can be relocated along the same thoroughfare. Notwithstanding the foregoing, such sign may be relocated and rebuilt as a digital billboard with a single digital or static face on each side at a face size no greater than 672 square feet (excluding cabinetry and framing or trim), provided that the sign owner shall provide for the display of emergency message alerts on the digital sign faces in accordance with the established protocols of local and state authorities. This relocation will require a sign permit from the city.
- c. An existing legal nonconforming off-premises sign located on Interstate 49 may be altered or rebuilt as a digital billboard with a single digital or static face on each side at a face size no greater than 672 square feet (excluding cabinetry and framing or trim), provided that the sign owner shall provide for the display of emergency message alerts on the digital sign faces in accordance with the established protocols of local and state authorities.

Owners of digital billboards may construct a sign with one or two digital billboard sign faces and shall have the sole option to remove the digital units from the outdoor advertising structure at any time, for any reason. During all periods where there are no digital unit(s) on the sign structure, the sign owner shall be permitted to operate the sign face(s) as traditional, static type.

- (6) *Fluctuating illumination.* Signs illuminated by flashing or blinding lights are prohibited. Time and temperature displays without advertising and digital billboards on relocated signs in accordance with subsection (5) are permitted, provided that all other requirements of this article shall be met. No exposed reflective-type bulbs or incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign or device so as to expose the face of the bulb, light or lamp to any public structure or adjacent property.
- (7) *Dilapidated signs.* Signs in a state of structural, mechanical, or cosmetic disrepair such that it does not meet the construction standards hereof, or such that it is a visual blight or eyesore clearly visible from the public right-of-way.
- (8) *Other unlawful signs.* Any other sign not in compliance with any part of this article and not exempt from compliance.

(Code 1992, § 8-655; Ord. No. 326, § 2, 10-13-1992; Ord. No. 593, § 1, 7-9-2002; Ord. No. 692, § 1(D), 12-21-2004; Ord. No. 913, § 1, 5-15-2012; Ord. No. 948, § 1, 8-19-2014)

Sec. 16-532. - Banners.

Banners shall be permitted, provided the following requirements are met:

- (1) With each business license issued, the business owner shall be permitted one banner not to exceed 32 square feet, or multiple banners covering not more than 20 percent of the structure to which they are attached, however, no single banner shall exceed 30 square feet. In the event that a business is not required to obtain a business permit from the city, said business shall register with the city and upon registration shall be awarded the same banner privileges as those applying

for a business permit. In the event that a business desires to display banners on space exceeding 20 percent of the structure to which it is attached, a variance may be applied for on line on the city web site or with the community development director for a variance hearing before the board of adjustment.

- (2) In the event that a business possesses more than one structure (e.g., building), banners may be affixed to each structure, but shall not exceed 32 square feet per banner, and shall cover no more than 20 percent of the structure to which they are attached. Banners may be affixed to one surface per structure. In the event that a business fronts more than one street, banners may be placed on the sides of the business that front the streets provided that individual banners shall not exceed 32 square feet and banners shall cover no more than 20 percent of the side of the structure to which they are attached.
- (3) Banners shall be affixed to its supporting structure in such a manner as to prohibit it from flailing wildly about.
- (4) The owner of any business at which a banner is displayed shall be responsible for maintaining said banner in a clean, [sanitary, inoffensive condition, which is readable and in good repair].

In the event that a business possesses more than one structure (e.g., building), banners may be affixed to each structure, but shall not exceed 32 square feet per banner, and shall cover no more than 20 percent of the structure to which they are attached. Banners may be affixed to one surface per structure. In the event that a business fronts more than one street, banners may be placed on the sides of the business that front the streets provided that individual banners shall not exceed 32 square feet and banners shall cover no more than 20 percent of the side of the structure to which they are attached.

- (5) Banners shall be affixed to its supporting structure in such a manner as to prohibit it from flailing wildly about.
- (6) The owner of any business at which a banner is displayed shall be responsible for maintaining said banner in a clean, sanitary, inoffensive condition, which is readable and in good repair.
- (7) Multiple tenant properties (i.e., shopping centers, strip malls, etc.) shall be permitted to display a number of banners equal to ten percent of the total number of tenants in that complex, however, in no case shall the total number of banners displayed exceed five banners per complex. If ten percent of the total number of tenants in a complex is five-tenths and above, the number of banners permitted shall be rounded to the nearest whole number. However, each individual business within said complex shall be permitted to attach one banner to its assigned portion of the building, window, or awning, in compliance with subsection (1).
- (8) In the event that a business owner wishes to utilize banners in some arrangement other than those provided in this section, a variance may be applied for online at the city web site or through the community development director for a variance hearing before the board of adjustment.

(Ord. No. 692, § 1(E), 12-21-2004; Ord. No. 948, § 1, 8-19-2014)

Sec. 16-533. - Sign maintenance.

All freestanding signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, and free and clear of all obnoxious substances, rubbish, and weeds.

(Ord. No. 692, § 1(F), 12-21-2004)

Secs. 16-534—16-559. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Subdivision I. - In General

Sec. 16-560. - Enforcement officer.

The city code enforcement officer shall have power to regulate the provisions of this article. Further, he shall have authority to develop procedures for the orderly administration and enforcement of the provisions of this article. Upon presentation of proper credentials, the city code enforcement officer, or his duly authorized representative, may enter, at reasonable times, any building, structure, or premises in the city to perform any duty imposed upon him by this article.

(Code 1992, § 8-671; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(G), 12-21-2004)

Sec. 16-561. - Violations.

- (a) If the city code enforcement officer shall find that any sign or advertising is in violation of this article, he shall give written notice to the permittee to remove or alter the sign so as to comply with the provisions of this article within 30 days after such notice. If the permittee shall fail to remove or alter the offending sign to comply with the provisions of this article, the city code enforcement officer shall remove the offending sign at the expense of the permittee. The city code enforcement officer may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice, but shall subsequently give written notice to the permittee.
- (b) The cost of removal of such signs shall be at the expense of the permittee. The city shall, if necessary, bring suit in a court of competent jurisdiction to collect its expenses incurred in removing the offending sign.

(Code 1992, § 8-672; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(H), 12-21-2004)

Sec. 16-562. - Nonconforming existing signs.

- (a) Nonconforming signs. For purposes of this section, a nonconforming sign shall be defined as a sign existing at the effective date of the ordinance from which this article is derived which could not be built under the terms of this article or under the terms of the city's zoning ordinance set forth in article III.
- (b) Any existing sign which is subsequently destroyed to the extent that either 50 percent of its then replacement cost or 50 percent of its physical structure shall not be repaired or rebuilt unless it shall be reconstructed so as to comply with the provisions of this article.
- (c) Any on-site nonconforming sign shall be removed or shall be altered to conform to the provisions of this subdivision when the nature of the business conducted on the premises changes and the sign is changed or modified in shape or size.
- (d) Any off-premises nonconforming sign not otherwise prohibited by the provisions of this article shall be removed or shall be altered so as to conform with the provisions of this article when the sign is changed or modified, either in shape or size.
- (e) No nonconforming sign shall be enlarged, extended, changed to another use or location, or otherwise altered in such a way as to increase its nonconformity.
- (f) Any existing sign, which is subsequently abandoned as provided in section 16-531(3), shall not be used after such abandonment unless it shall be made to comply with the provisions of this article.
- (g) All portable signs shall be subject to this article.
- (h) All existing hazardous signs shall be subject to immediate removal.

(Code 1992, § 8-673; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(I), 12-21-2004)

Sec. 16-563. - Appeals and variances.

- (a) Appeals from the decisions of the building inspector may be made to the board of adjustment provided the appeal is filed with the secretary of the board of adjustment within 30 days after notice of the decision of the building inspector.
- (b) The board of adjustment shall develop rules and regulations which shall govern the filing and processing of all appeals and variances as provided in this section.
- (c) The board of adjustment may hear requests for variances from the literal provisions of this article in instances where strict enforcement of this article would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variance only when it is demonstrated that such action will be in keeping with the spirit and intent of this article. The board of adjustment may impose conditions in the granting of a variance to ensure compliance and to protect adjacent property.
- (d) Appeals from the decisions of the board of adjustment may be made to the county circuit court.

(Code 1992, § 8-674; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(J), 12-21-2004)

Secs. 16-564—16-589. - Reserved.

Subdivision II. - Permit

Sec. 16-590. - Required.

It shall be unlawful for any person to erect, repair, alter, or relocate within the city any sign, except as exempted, without first obtaining a sign from the city building inspector and making payment of the fee as required, except as otherwise provided in this article. No permit shall issue except for signs in compliance with this chapter. A separate permit shall be required for each sign. All illuminated signs shall, in addition, be subject to the provisions of the electrical code, and the permit fees required thereunder.

(Code 1992, § 8-691; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(K), 12-21-2004)

Sec. 16-591. - Application.

- (a) Application for a sign permit shall be made in writing to the city building inspector.
- (b) Such application shall include the following specifications:
 - (1) The name, address and telephone number of the applicant.
 - (2) The location of the building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
 - (3) The location of the proposed sign indicated on a drawing with adequate reference points for location on the site or staking of the sign location on the site.
 - (4) The name and address of the person, firm, corporation or association erecting the sign.
 - (5) Dimensions of the sign.
 - (6) Two drawings of the plans and specifications and method of construction and attachment to the building or in the ground, including materials and illumination to be used in the erection and operation of the sign.

- (7) The zoning for the property where the sign is to be located.
- (8) Written consent of the owner of the building, structure or land to which or on which the structure is to be erected.
- (9) Any electrical permit required and issued for said sign. Application requesting electrical permit for proposed sign must accompany sign application.
- (10) Any other information the building inspector shall require to show full compliance with city ordinances.

(Code 1992, § 8-692; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(L), 12-21-2004)

Sec. 16-592. - Issuance, term, fees, and tags.

- (a) It shall be the duty of the building inspector, upon the filing of an application for a sign permit, to examine such plans and specifications and other data and the premises upon which the permittee proposes to erect the sign.
- (b) If it appears that the proposed structure is in compliance with all requirements of this article and with other applicable law, the city building inspector shall issue the erection permit. If the work authorized under an erection permit has not been completed within six months after date of issuance, the permit shall become null and void.
- (c) Every applicant, before being granted a permit, shall pay to the building inspector's office the permit fee as currently established or as hereafter adopted by resolution of the city council from time to time for each sign. All permit fees will be doubled if a sign is installed prior to obtaining a sign permit.
- (d) Signs not installed according to the conditions of the permit shall have five days to bring the sign into compliance with this article or remove the signs as specified.
- (e) All signs requiring permits shall display, in a place conspicuous to inspectors, a tag supplied by the city building inspector and containing such data as he may designate.

(Code 1992, § 8-693; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(M), 12-21-2004; Ord. No. 838, § 1, 7-1-2008)

Sec. 16-593. - Inspection.

All signs shall be subject to inspection by the city building inspector in accordance with law. The city building inspector may revoke any permit and/or may order any sign removed at any time upon notice and for good cause, including without limitation, for failure to erect, use or maintain the sign in compliance with this article.

(Ord. No. 692, § 1(N), 12-21-2004)

Secs. 16-594—16-619. - Reserved.

Subdivision III. - Standards and Requirements

Sec. 16-620. - Zoning regulations.

The provisions of this section shall be applicable to all areas regardless of zoning.

- (1) *Nonresidential freestanding signs.*

- a. Each separate nonresidential lot shall be allowed a single ground-mounted monument sign located on the building site, except that in the case of lots with double frontage, no more than two ground-mounted monument signs shall be permitted.
 - b. Each sign shall be no more than ten feet high, and 75 square feet in area.
 - c. All signs shall set back a minimum of 15 feet from the curb, street edge, or sidewalk, whichever is the greater distance.
- (2) *Wall signs.* One wall sign may be installed per business. The sign area shall not exceed 20 percent of the wall area, or 200 square feet, whichever is less. In the event that it is determined that a structure has more than one front facing a street or highway right-of-way, a second sign may be permitted upon application to the planning commission.
 - (3) *Projecting signs.* The maximum size for a projecting sign shall be six square feet.
 - (4) *Illumination.* Only indirect lighting shall be permitted for the illumination of signs.
 - (5) *Multiple tenants.* The owner of a building containing multiple tenants shall be responsible for the provision of one monument sign with sign area for said tenants.
 - (6) *Residential freestanding signs.* A developer of a subdivision may erect signs not to exceed 80 square feet per entrance. A multifamily housing development containing six or more units may erect a sign not to exceed 80 square feet on each street frontage.

(Code 1992, § 8-711; Ord. No. 326, § 2, 10-13-1992; Ord. No. 499, § 2, 3-9-1999; Ord. No. 593, § 2, 7-9-2002; Ord. No. 692, § 1(O), 12-21-2004)

Sec. 16-621. - Additional regulations for temporary signs.

- (a) Temporary signs advertising the real property upon which the sign is placed for rent or for sale shall not exceed six feet in height and shall have a maximum sign-face area of 32 square feet and a maximum sign area of 64 square feet.
- (b) The maximum surface area of all other temporary signs shall be 32 square feet.
- (c) Temporary signs may be erected, used, or maintained on any lot or parcel provided they are maintained in a state of proper repair, but shall be removed within ten days after completion of the project to which the sign is related.
- (d) There shall be no mandatory setback for temporary signs in the city. A lack of any mandatory setback for temporary signs shall not affect the power of the appropriate enforcement officials for the city to require the movement of signs or to remove signs in order to preserve the safety of the citizens.

(Code 1992, § 8-712; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(P), 12-21-2004; Ord. No. 756, § 1, 7-18-2006)

Sec. 16-622. - Additional regulations for portable signs.

- (a) The maximum surface area for portable signs shall be 55 square feet.
- (b) Only one portable sign may be erected per site or business establishment, subject to a six-month time limit per year. The permit shall run for a consecutive six-month period from the date of approval of the permit application.
- (c) All portable signs shall be set back a minimum of 15 feet from the curb, street edge, or sidewalk, whichever is of greater distance.
- (d) If illuminated, all portable signs shall be required to have underground electric service, minimum schedule 40 PVC conduit.

(Code 1992, § 8-713; Ord. No. 326, § 2, 10-13-1992; Ord. No. 692, § 1(Q), 12-21-2004)

Sec. 16-623. - Illuminated signs.

- (a) It shall be unlawful for any person to erect or to operate devices on signs which are illuminated by flashing or blinding lights or by lights that fluctuate in intensity or illumination.
- (b) Time and temperature displays, without advertising, shall be exempt from subsection (a) of this section provided all other requirements of this article shall be met.
- (c) No exposed reflective-type bulbs and no strobe light or incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light, or lamp to any public street or adjacent property.

(Code 1992, § 8-714; Ord. No. 326, § 2, 10-13-1992)

Sec. 16-624. - Freestanding, on-premises signs in interstate sign district.

- (a) *District boundary established.* The height and size restrictions of freestanding, on-premises signs are hereby amended and altered for any business which is located in the following area:

Beginning on the northwest at the point where North Goad Springs Road meets the northern city limits;

Then, east along the city limits border until it meets Dixieland Road (currently Pleasant Grove Parkway);

Then southerly along Dixieland Road to the point where Dixieland Road terminates;

Then due west until it meets South Goad Springs Road;

Then northerly along Goad Springs Road until it meets the northern city limits, plus those parcels of property bordering and contiguous to those specific portions of Goad Springs Road and Dixieland Road described herein (hereinafter referred to the "interstate sign district"). A diagram of this district is attached to the ordinance from which this section is derived and incorporated herein.

- (b) *Sign regulations for district area.*

- (1) Freestanding, on premises signs within this area shall be no higher than 35 feet from the top of the sign to the ground, except as provided herein, and shall be no larger than 200 square foot in area.
- (2) The maximum height may be increased by ten feet for each additional and separate and adjacent business which is advertised on the sign structure, up to a maximum height of 65 feet.
- (3) Each business advertised on such sign must possess a valid city business license.
- (4) The sign must advertise the business taking place on the property or adjacent properties where the sign is located. No business may advertise on more than one freestanding, on premises sign.
- (5) No sign shall be located closer than five feet from any property line.
- (6) Any sign permitted herein shall be illuminated from the interior of the sign. Flashing and moving signs are prohibited.
- (7) Any sign erected pursuant to this section and within the district described within this section must be approved by the appropriate city official, and a permit must be obtained prior to construction or location of the sign.

(c) *Intent of section.* This section is intended to alter the height, size and location of freestanding, on-premises signs located within this district only. All regulations or ordinances apply to signs within the city within the district described herein, except where they are specifically altered or amended by this section.

(Ord. No. 810, §§ 1—6, 9-18-2007)

Secs. 16-625—16-651. - Reserved.

ARTICLE VIII. - DRAINAGE AND STORMWATER MANAGEMENT

Sec. 16-652. - Intent

The requirements contained in this article shall apply to the planning area jurisdiction of the city. This area will be referred to in this article as the "city drainage area." All subdivisions of land located in the city drainage area coming under the planning area jurisdiction of the city in any manner whatsoever shall be subject to this article. Drainage channels shall be classified as follows:

- (1) Primary channels shall be all natural drainage channels that carry storm flows originating outside the subdivision.
- (2) Secondary channels shall be all drainage channels within the city drainage area which are not classified as primary drainage channels. Such channels shall normally be constructed to intercept overland flow that is en route to a primary channel.

(Code 1992, § 8-751; Ord. No. 257, § 1, 4-12-1988)

Sec. 16-653. - Violations.

When a violation of this article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the building inspector. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this article. The building inspector or his duly appointed or employed representative shall be responsible for enforcement of the provisions of this article and shall see to its proper administration.

(Code 1992, § 8-752; Ord. No. 257, § 11, 4-12-1988)

Sec. 16-654. - Adoption of City of Lowell Drainage Manual

The City Council hereby adopts by reference the City of Lowell Drainage Manual, adopted by Ordinance No. xxxx of the City of Lowell, and as may be amended from time to time by the City Engineer. All technical procedures and design standards contained therein shall have the same force and effect as if printed word for word in this chapter.

(Code 1992, § 8-753; Ord. No. 257, § 2, 4-12-1988)

Sec. 16-655. - Primary drainage channels.

All primary drainage channels lying within, or immediately adjacent to, a subdivision shall meet the following conditions:

- (1) All land having an elevation below the 50-year maximum flood elevation and not protected by levies or dikes shall be dedicated to the city for the purpose of providing drainage and for public parks and utility easement use.
- (2) The existing channel lying within or immediately adjacent to the subdivision shall be cleaned to provide for the free flow of water, and the channel shall be straightened, widened and improved to the extent required to prevent overflow beyond the limits of the dedicated drainage area.
- (3) Site improvements shall be provided for the grading of all building sites and streets to an elevation where all building sites will not be subject to overflow, and in a manner that will provide for the rapid runoff of all rainfall.
- (4) Whenever channel improvement is carried out, sodding, backsloping, cribbing and other bank protection shall be designed and constructed to control erosion for all the anticipated conditions of flow for the segment of channel involved.
- (5) A drainage channel shall not be located in a street easement unless it is placed in an enclosed conduit, or unless a paved street surface is provided on both sides of a paved channel to give access to abutting properties.
- (6) Culverts, bridges and other drainage structures shall be constructed in accordance with accepted standard engineering practices and the specifications of the city of all locations where drainage channels intersect with continuous streets or alleys.

(Code 1992, § 8-754; Ord. No. 257, § 3, 4-12-1988)

Sec. 16-656. - Secondary drainage channels and surface drainage.

Surface drainage and all secondary channels within or adjacent to the subdivision shall meet the following conditions:

- (1) Secondary drainage channels which have a primary function of collecting surface water from adjacent properties or interception and diverting side hill drainage shall be provided with an improved open channel.
- (2) Secondary drainage channels which have a primary function of transporting water through the block or collecting water from cross channels and which have a drainage area of less than ten acres shall be improved with closed storm sewers; and, where the secondary drainage channel has a drainage area of greater than ten acres, an improved open channel or closed storm sewer shall be provided.
- (3) A drainage channel shall not be located in a street easement unless it is placed in a closed storm sewer, or unless a paved street surface is located on both sides of a paved drainage channel to give access to abutting properties.
- (4) Site grading shall be carried out in such a manner that surface water from each lot will flow without diversion to a storm sewer, improved channel or paved street.
- (5) Surface water collected on streets shall be diverted to storm drains at satisfactory intervals to prevent overflow of standard city curbs during a five-year frequency rain for the area and grades involved. Drainage area allowed for surface flow on streets at point of diversion shall not exceed ten acres, regardless of flow.
- (6) Drainage easements of satisfactory width to provide working room for construction and maintenance shall be provided for all storm sewers. In no case shall the total easement be less than 20 feet.
- (7) Open channels shall be improved by providing a paved section that will carry the runoff from a rain of 25-five-year frequency and or additional sodded section to carry the additional runoff from a rain of 50-year frequency. The design of channel improvements shall be in accordance with the standards set forth on Figures 2A and 2B attached to the ordinance from which this article is

derived and which are on file in the city clerk-treasurer's office. Whenever an open improved channel is required or authorized for a secondary channel, under the provisions of this article, and the channel crosses residential lots which have a width of not less than 90 feet and an area of not less than 13,500 square feet, and the channel improvement is to be designed as an integral part of the landscaping of the area that will be maintained by the property owners of the area, then the city council may modify the requirements of the first part of this subsection to permit a channel improvement design in accordance with Figure 3 attached to the ordinance from which this article is derived.

(Code 1992, § 8-755; Ord. No. 257, § 4, 4-12-1988)

Sec. 16-657. - Requirements relating to improvements.

The following requirements apply to improvements:

- (1) *Bridges and culverts.*
 - a. All flow of water across continuous streets or alleys shall be through culverts or bridges.
 - b. Bridges and culverts, whether primary or secondary, shall be sized to accommodate the proper frequency rain, based on the drainage area involved.
 - c. Design of bridges and culverts shall conform to the city construction standards and specifications.
- (2) *Closed storm sewers.* Closed storm sewers shall be constructed of precast or prefabricated pipe or cast-in-place conduit conforming with the city construction standards and specifications to serve the proper frequency rain for the drainage area involved. Sizing shall be calculated by the Manning formula.
- (3) *Open paved storm drainage.* Open paved storm drainage channels shall be constructed in accordance with the city standards and specifications. Side slopes above the paved section shall be shaped and sodded on a slope of four horizontal to one vertical or flatter. Fences shall not be erected below the shoulder of the sodded section and in no case shall fences be closer than six feet, measured horizontally, to the edge of the paved section.

(Code 1992, § 8-756; Ord. No. 257, § 5, 4-12-1988)

Sec. 16-658. - Drainage channels and storm sewers outside subdivision boundaries.

The city reserves the right to require improvements, provision of drainage easements, and for provision of agreements beyond the boundaries of the subdivision to facilitate flow of water through the subdivision; to avoid possibility of lawsuits based on damage from changed runoff in the addition; and to provide continuous improvements of the overall storm drainage system. The developer of a subdivision may be responsible at his expense for making off-site improvements necessary to correct drainage or flooding problems created by their subdivision. Improvement requirements outside the subdivision which must be satisfied by the developer may apply to but shall in no way be limited by the following areas of concern:

- (1) *Location.* Channels or storm sewers leading to or from the subdivision, or channels or storm sewers located in adjacent areas that are affected by flow of water to or from the subdivision.
- (2) *Improvements.*
 - a. Enlargement or replacement of undersized drainage structures to provide free flow;
 - b. Removal of obstructions;
 - c. Straightening of channel;

- d. Widening or deepening of channel;
- e. Construction of erosion control structures;
- f. Backsloping, sodding, and/or rip-rapping of bank;
- g. Construction of closed or open paved storm sewers for purpose of closing gap or continuation of overall storm sewer system.

(Code 1992, § 8-757; Ord. No. 257, § 6, 4-12-1988)

Sec. 16-659. - Preparation of storm sewer plans.

In accordance with A.C.A. § 22-9-101, the preparation of all plans, calculations, specifications, estimates and construction supervision shall be under the supervision of a registered professional engineer, licensed to practice under state law. The design of the storm sewer facilities shall conform to the procedures found in the Water Pollution Control Federation Manual of Practice No. 9, Design and Construction of Sanitary and Storm Sewers.

(Code 1992, § 8-758; Ord. No. 257, § 7, 4-12-1988)

Sec. 16-660. - Preservation of calculations.

In order that future developers may develop other areas within a watershed and upon complete and ultimate development of a drainage basin that all storm drainage systems within the basin are compatible and functional, the following requirements shall exist:

- (1) The engineer shall prepare and submit to the city one copy of the final calculations to be deposited in the archives of the city. These calculations with related drawings shall be prepared in accordance with the Water Pollution Control Federation Manual of Practice No. 9, dated 1970, as appears in table XIII or table XXIII of such manual.
- (2) The preparation of this data shall be completed and submitted along with the final plat.
- (3) The Water Pollution Control Federation Manual of Practice No. 9 (Design and Construction of Sanitary and Storm Sewers) shall be used as the reference manual for any items that are not covered by this article.

(Code 1992, § 8-759; Ord. No. 257, § 8, 4-12-1988)

Sec. 16-661. - Storm drainage, pipe and pipe underdrain requirements.

The plans and specifications for proposed storm drainage systems shall be equal to the following minimum standards:

- (1) *Pipe*. Minimum standards for pipe shall be as follows:
 - a. Reinforced concrete pipe shall conform to AASHTO M 170 for circular pipe and to AASHTO M 206 for arch shaped pipe. Class III shall be the minimum class of pipe used. The joint seal shall be either cement mortar, three parts sand and one part cement, or cold applied preformed plastic gaskets conforming to AASHTO M 198, Type B.
 - b. Corrugated steel pipe shall conform to AASHTO M 36, AASHTO M 190 for coated pipe and to AASHTO M 218 for sheets to form pipe. As an alternate to bituminous coated pipe, precoated pipe meeting the requirements of AASHTO M 245 and M 246, for Type B, may be substituted.

- c. All flared end sections shall be reinforced concrete. The reinforced concrete flared end sections for circular and arch concrete pipe shall meet the applicable requirements for class II or higher class of pipe.
 - d. Corrugated metal pipe shall be capable of withstanding an H-20 load.
 - e. Coupling bands for corrugated metal pipe shall be the same metal as used in the pipe and shall be a single or double piece with bolts and angles.
 - f. All pipe shall have a minimum cover at subgrade elevation of one foot at the shoulder or curb, unless otherwise approved by the street superintendent.
- (2) *Excavation, trench preparation and installation.* Minimum standards for excavation, trench preparation and installation shall be as follows:
- a. Where the pipe is laid below ground line, the trench shall be excavated to the required depth and width to allow sufficient room for tamping of backfill. The bottom of the trench shall be shaped to conform to the bottom of the pipe with recesses excavated to receive the bells where bell and spigot pipe are used. Where pipe is not laid in a trench, a uniform firm bed shall be made as specified in this subsection.
 - b. When rock is encountered in the trench, it shall be removed to a minimum depth of six inches below the pipe, and the excess depth shall be filled with a suitable material and compacted.
 - c. All unsuitable material, including soft and yielding material, shall be removed and replaced with suitable material and compacted to ensure a firm support.
 - d. The pipe shall not be laid in water or in unsuitable weather or trench conditions, unless approved by the city engineer.
 - e. After each joint of pipe has been graded, aligned and placed in final position, the bedding material shall be deposited and compacted under and around each side of the pipe and back of the bell, or the end thereof, to firmly hold and maintain the pipe in proper positions and alignment during subsequent pipe joining, embedment and backfilling operations.
 - f. No debris creating a clogging action shall be allowed to remain in the storm drainage system.
 - g. All storm drainage pipe, under any street improvement, shall be backfilled with SB-2, 1SB-3 base or material approved by the city engineer and compacted before the base and curb and gutter are constructed. The backfill base material shall be brought up evenly on each side of the pipe to avoid displacement. Special care shall be taken to compact the material under the haunches of the pipe. The base material shall be compacted with mechanical equipment to at least 95 percent of the maximum density as determined by AASHTO T 180.
 - h. When culvert pipe is to be relayed, the construction procedures shall be in accordance with the AHTD Standard Specification requirements for relaying culvert pipe.
 - i. When structural plate pipe and arches are used, the materials and construction procedures shall be in accordance with the AHTD Standard Specification Requirements for Structural Plate Pipe and Arches. Flared end sections may be used when approved by the city engineer.
- (3) *Headwalls, drop inlets and junction boxes.* Minimum standards for headwalls, drop inlets and junction boxes shall be as follows:
- a. All drainage structures shall be constructed of reinforced concrete.
 - b. All concrete shall be a minimum 5½ sack mix and have a 28-day compressive strength of 3,500 pounds per square inch and a flexure strength of 600 pounds per square inch.
 - c. The minimum thickness of reinforced concrete walls, floors, and tops shall be six inches.
 - d. Concrete drainage structures shall be constructed with reinforcing steel having a maximum spacing of 12 inches on centers and a minimum size of number four bar.

- e. Concrete bottoms for structures shall be poured at least 24 hours prior to beginning construction of the vertical walls.
 - f. Junction boxes shall have a minimum interior dimension of four feet.
 - g. Walls shall be constructed to form a tight joint with the floor and around the inlet and outlet pipes. The pipes shall be flush with the inside surface of the wall.
 - h. Unless otherwise directed by the street superintendent, all drop inlets, junction boxes and box culverts shall have a two-inch to three-inch weep hole at the subgrade elevation.
 - i. Headwalls shall be constructed on the upstream and downstream sides of the storm drainage system where no other drainage structures are required, or flared end sections may be used when approved by the street superintendent.
- (4) *Rings, covers, grates and frames.* Minimum standards for rings, covers, grates and frames shall be as follows:
- a. Iron castings shall conform to ASTM A 48 Class 30A for Gray Iron Castings.
 - b. The combined weight of the ring and lid for sidewalk type shall be a minimum of 125 pounds and for the street type shall be a minimum of 300 pounds.

(Code 1992, § 8-760; Ord. No. 257, § 9, 4-12-1988)

Secs. 16-662—16-680. - Reserved.

ARTICLE IX. - FLOOD DAMAGE PREVENTION^[6]

Footnotes:

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State Law reference— Authority to adopt flood damage prevention regulations, A.C.A. § 14-268-101; penalty for violation of same, A.C.A. § 14-268-103.

Sec. 16-681. - Statutory authorization.

The legislature of the state has in A.C.A. § 14-268-104 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

(Code 1992, § 8-776; Ord. No. 503, § 1, 5-11-1999; Ord. No. 811, § 1, 9-18-2007)

Sec. 16-682. - Findings of fact.

- (a) The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Benton County," dated September 28, 2007, with an effective flood insurance rate map (FIRM) dated September 28, 2007.
- (b) These special flood hazard areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

- (c) These periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately floodproofed or otherwise unprotected structures or uses vulnerable to floods into special flood hazard areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events.

(Code 1992, § 8-777; Ord. No. 503, § 1, 5-11-1999; Ord. No. 811, § 2, 9-18-2007)

Sec. 16-683. - Statement of purpose.

The purpose of this article is to promote the public health, safety and general welfare, to prevent adverse impacts from any floodplain development activities, and to minimize public and private losses due to flooding events in identified special flood hazard areas. This article advances the stated purpose through provisions designed to:

- (1) Protect human life and health;
- (2) Protect natural floodplains against unwise development;
- (3) Eliminate adverse impacts of necessary floodplain development;
- (4) Minimize expenditure of public monies on flood control projects;
- (5) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) Minimize prolonged business interruptions due to flooding events;
- (7) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in special flood hazard areas;
- (8) Minimize future flood blight areas to help maintain a stable tax base; and
- (9) Provide for notice to potential buyers when property is in a special flood hazard area.

(Code 1992, § 8-778; Ord. No. 503, § 1, 5-11-1999; Ord. No. 811, § 3, 9-18-2007)

Sec. 16-684. - Methods of reducing flood losses.

This article uses the following methods to accomplish the stated purpose:

- (1) This article restricts or prohibits structures or uses in special flood hazard areas that adversely impact health, safety or property during flooding events.
- (2) This article requires protection against flood damage for structures or uses vulnerable to floods at the time of initial construction, or after substantial improvement of the structure, or after substantial damage has occurred.
- (3) This article controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of floodwaters.
- (4) This article controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, floodwater velocities, or flood discharge patterns.
- (5) This article regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands.

(Code 1992, § 8-779; Ord. No. 503, § 1, 5-11-1999; Ord. No. 811, § 5, 9-18-2007)

Sec. 16-685. - Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

Excavations and bores within the Rogers Water Utilities Service Area (the geographical area located within the corporate limits of the City of Lowell in which the Rogers Water Utilities provide water service, sewer service, or both) shall also be subject to chapter 30, article I, sections 30-1 through 30-10, of this Code. No person shall excavate or bore within the Rogers Water Utilities Service Area until a permit is obtained from the Rogers Water Utilities pursuant to said provisions of this Code.

(Code 1992, § 8-801; Ord. No. 503, § 1, 5-11-1999; Ord. No. 811, § 4, 9-18-2007; [Ord. No. 1049, § 2, 4-1-2020](#))

Sec. 16-686. - Flood damage prevention code adopted by reference.

- (a) There is hereby adopted by reference a "Flood Damage Prevention Code for the City of Lowell, Arkansas," dated September 28, 2007. The code shall include:
- (1) ARTICLE 1: DEFINITIONS.
 - (2) ARTICLE 2: ADMINISTRATION.
 - (3) ARTICLE 3: PROVISIONS FOR FLOOD HAZARD REDUCTION.
- (b) Three copies of the referenced code shall be filed in the office of the city clerk-treasurer and shall be available for inspection and copying by any person during normal office hours.
- (c) When reference is made within said code to the duties of a certain official named therein, that designated official for the city shall be the floodplain administrator of the city, and/or his designee(s), who shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.
- (d) Nothing contained in this article, or the code adopted hereby, shall in any way alter or affect the "employment at will" status of all employees of the city, including any and all employees who will apply and administer this Code.

(Ord. No. 811, § 6, 9-18-2007)

Sec. 16-687. - Abrogation and greater restrictions.

This article does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Whenever there is a conflict or overlap between this article and another ordinance, easement, covenant, or deed restriction, the instrument with the more stringent restrictions applies.

(Code 1992, § 8-805; Ord. No. 503, § 1, 5-11-1999; Ord. No. 811, § 7, 9-18-2007)

Sec. 16-688. - Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the city council; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1992, § 8-806; Ord. No. 503, § 1, 5-11-1999; Ord. No. 811, § 8, 9-18-2007)

Sec. 16-689. - Warning and disclaimer or liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes. Documented scientific and engineering data form the basis for these requirements. On rare occasions, flooding events greater than those considered for this article will occur. In addition, flood heights may increase over time due to manmade or natural causes. This article does not imply that land outside special flood hazard areas will be free from flooding, nor that strict adherence to this article protects uses permitted within special flood hazard areas from all flood damages. This article specifically does not create liability on the part of the community, nor any official or employee of the community, for any flood damages that result while strictly following this article, or from any lawful administrative decision made under the provisions of this article.

(Code 1992, § 8-807; Ord. No. 503, § 1, 5-11-1999; Ord. No. 811, § 9, 9-18-2007)

Sec. 16-690. - Compliance.

Constructing, locating, substantially altering or changing the use of any structure or land after the effective date of the ordinance from which this article is derived requires full compliance with the provisions of this article and all other applicable regulations.

(Ord. No. 811, § 10, 9-18-2007)

Sec. 16-691. - Penalty for noncompliance.

- (a) Flood hazards are reduced by compliance with the provisions of this article. Accordingly, enforcement of this article discourages noncompliance and is a recognized mechanism for flood hazard reduction.
- (b) The floodplain administrator must enforce the provisions of this article and is authorized to:
 - (1) Issue cease and desist orders on noncompliant floodplain development projects;
 - (2) Issue citations for noncompliance;
 - (3) Request that FEMA file a 1316 Action (denial of flood insurance) against noncompliant properties; and
 - (4) Take any other lawful action necessary to prevent or remedy any instance of noncompliance with the provisions of this article.
- (c) It is a misdemeanor to violate or fail to comply with any provision of this article.
- (d) Any person found, in a court of competent jurisdiction, guilty of violating this article is subject to penalties for a code violation; in addition, the defendant is subject to payment of all associated court costs and costs involved in the case.

(Ord. No. 811, § 11, 9-18-2007)

Secs. 16-692—16-777. - Reserved.

ARTICLE X. - STREETS AND SIDEWALKS

DIVISION 1. - GENERALLY

Secs. 16-778—16-807. - Reserved.

DIVISION 2. - MINIMUM DESIGN STANDARDS

Sec. 16-808. - Adoption.

The master street plan and map, as prepared by the city planning commission, a copy of which is on file in the office of the city clerk-treasurer, is hereby adopted as the master street plan for the city. Said "master street plan" map is hereby made a part of this chapter.

(Code 1992, § 8-851; Ord. No. 320, § 4, 4-12-1992; Ord. No. 772, § 1, 12-19-2006; Ord. No. 818, § 1, 11-20-2007)

Sec. 16-809. - Purpose and intent.

The purpose of the master street plan is to identify the primary major street system for the city and immediate urban area. The intent of the plan is to provide the basis for the future development of land in relation to a system of major streets and highways and to form the basis for recommendations for the improvement of the existing street system in order to better handle present and anticipated traffic needs.

(Code 1992, § 8-852; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-810. - Map.

The map titled "Master Street Plan," revised August 1983, is a part of this master street plan.

(Code 1992, § 8-853; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-811. - Master street plan.

A true and correct copy of the City of Lowell 2008 Master Street Plan is hereby adopted by reference and kept on file in the office of the city clerk.

(Code 1992, § 8-854; Ord. No. 320, § 4, 4-12-1992; Ord. No. 841, § 1, 7-15-2008)

Sec. 16-812. - Rights-of-way.

The desirable rights-of-way for all streets and highways are as follows:

		Feet
Federal aid system		
Primary		
	In undeveloped areas	120

	In built-up urban areas	80
Secondary		
	In underdeveloped areas	100
	In built-up urban areas	80
Major streets and roads		80
Collector streets		60
Minor streets		50

(Code 1992, § 8-855; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-813. - Coordination of plan.

This master street plan for the city shall be coordinated with the planning of the state highway and transportation department and shall be for the entire area of the city planning jurisdiction.

(Code 1992, § 8-856; Ord. No. 320, § 4, 4-12-1992)

Secs. 16-814—16-834. - Reserved.

DIVISION 3. - DEVELOPMENT IMPROVEMENTS

Sec. 16-835. - Installation or improvement of sidewalks, curb and gutter, street paving or widening, and drainage improvements.

- (a) Whenever any lot, tract or parcel of land is developed by any person or entity, whether or not a structure is to be built thereon, the city, in accordance with the master street plan and the comprehensive land use plan, and this Code, shall require the owner of the property being developed to install or construct sidewalks, curb and gutter, pave or widen the existing street, or install or construct drainage facilities, in accordance with all applicable regulations herein affecting construction of those specific improvements, on or along such owner's property or the existing rights-of-way abutting such property.
- (b) For purposes of this section, the terms "develop" and "development" shall be defined as the commencement of construction of any visible improvements of any kind upon any previously undeveloped parcel of land.
- (c) If the city council determines that a needed improvement should not or cannot be built until future development occurs, the developer shall pay to the city an amount determined by the city council in accordance with the standards prescribed in this Code. The city shall deposit any such money received from a developer into an interest-bearing escrow account, which shall be held until such time as the

improvement is constructed. The amount of the deposit is to be based on the recommendation of the city engineer. If the improvements are not constructed within five years from the date of the first payment into the escrow account, the city council shall hold a public hearing after notification to all affected property owners. Following the public hearing, the city council may:

- (1) Determine that the improvements are still necessary and feasible and can be built within a reasonable time, in which case the escrow account shall be continued for a period specified by the city council; or
 - (2) Determine that the improvements are not necessary, or will not be feasible, or that insufficient development has occurred so as to render the improvements unlikely in the foreseeable future, in which case the city council shall earmark the funds for the improvement of the closest collector or local street which is most likely to be impacted by the development or in the ward in which the development exists, based on the recommendation of the city engineer.
- (d) In the event the property owner shall fail or refuse to comply with the provisions thereof, in the manner and within the time therein prescribed, the city may contract with some suitable person for the construction, reconstruction, or repair of such improvements, on the best terms that can be made and in the manner prescribed herein, after giving reasonable notice to the owner or the agent in charge of the property of an intention to do so.
- (e) The city may pay any person so hired to construct, reconstruct or improve such improvements, and in the amount so paid to such person by the city, together with six percent penalty added thereto, shall constitute a charge against the owner of the property and shall be a lien on the property from the date of the commencement of the work with the charge and lien to be enforced and collected by the city as provided by state law.
- (f) In instances where strict enforcement of said requirements would cause undue hardship due to circumstances unique to the individual property under consideration, and the granting of a variance is demonstrated to be within the spirit and intent of the provisions of this chapter, the city council may grant requests for variances of any requirements of this chapter, either by modifying or waiving such requirements to the extent deemed just and proper so as to relieve such difficulty or hardship, provided that such relief may be granted without detriment to the public interest.
- (g) Following notification of the requirement of installation of certain improvements by the city inspector, a property owner aggrieved by the city inspector's decision may appeal such action to the city council, provided that the appellant states specifically in writing to the city inspector why he considers the city inspector's findings and decision are in error. Such appeal shall be filed with the city clerk-treasurer within 30 days from the date of the city inspector's written notice of decision, and shall be scheduled for review at the next regular meeting of the city council, at which time the decision may be affirmed, reversed, or modified at the discretion of the city council.
- (h) Any person failing to comply with the provisions of this article shall be deemed to have violated this article, and shall be subject to the provisions and procedures set forth in section 1-8.

(Code 1992, § 8-857; Ord. No. 320, § 4, 4-12-1992; Ord. No. 348, § 1, 3-15-1994; Ord. No. 361, § 3, 5-10-1994)

Secs. 16-836—16-863. - Reserved.

DIVISION 4. - SIDEWALK CONSTRUCTION AND EXCAVATION

Sec. 16-864. - Construction of sidewalks; continuity.

- (a) All sidewalks shall be constructed in accordance with the following minimum specifications:
- (1) Sidewalks shall be located on the street right-of-way at the outside edge of the right-of-way.

- (2) Handicapped curb ramps shall be provided wherever a sidewalk crosses a curb at crosswalks, driveways and street intersections.
 - (3) Sidewalks shall be constructed on a compacted subgrade which is free from dust pockets, ruts and other defects.
 - (4) Sidewalks shall be constructed of Portland cement concrete with a minimum 28-day compressive strength of 3,000 pounds per square inch.
 - (5) Sidewalks shall be constructed with a minimum transverse slope of one-fourth inch per foot.
 - (6) The width shall be 48 inches.
 - (7) The thickness shall be four inches.
 - (8) Expansion joints shall be 25 feet.
 - (9) Transverse joints between expansion joints shall be scored at five-foot intervals.
 - (10) Sidewalks shall be finished with a wood float to a smooth and even surface.
- (b) The city building inspector shall have the discretion and authority to grant exceptions in order to accomplish reasonable continuity in sidewalks.

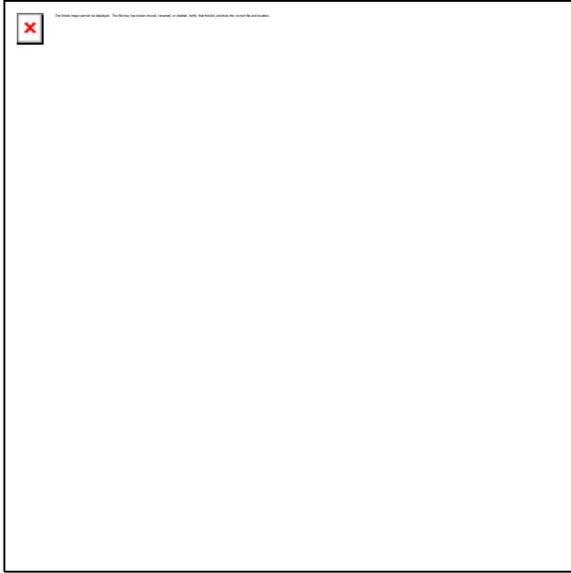
(Code 1992, § 8-858; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-865. - Excavation in streets.

- (a) *Permit requirements.* Before any person shall dig, excavate in, bore under, or remove any portion of any street, alley, curb or sidewalk in the city, he shall obtain a permit issued by the city street superintendent. At the time of making application for the permit, an inspection fee as currently established or as hereafter adopted by resolution of the city council from time to time shall be paid. An applicant for such permit shall deposit cash or a sufficient surety bond at the office of the city street superintendent before a permit shall be issued. The amount of the cash and/or bond shall be determined by the street superintendent based upon the estimated cost of the permanent repair as described in subsection (c)(4) of this section, but shall not be less than the amount as currently established or as hereafter adopted by resolution of the city council from time to time. The cash and/or bond shall be forfeited for failure to comply with the rules of public safety, failure to close the opening as quickly as possible, failure to complete the backfill and repair in accordance with specifications, failure to complete the necessary cleanup or causing unnecessary inconvenience or damage to vehicular or other traffic.
- (b) *Jacking or boring.* The depth of bury on installations which are jacked or bored under any street shall have a minimum depth of bury of 2½ feet below the low points of the street cross section to the top of the pipe or casing, or 3½ feet below the bottom of the pavement structure (top of subgrade) to the top of the pipe or casing, whichever gives the greatest depth. If the pavement structure is damaged by the jacking or boring installation, it shall be repaired in accordance with subsection (c) of this section.
- (c) *Street cuts.* All street cuts shall be made and repaired in accordance with Figure 1, 2 or 3, depending on the type of street surfacing.
 - (1) The person making the street cut shall sawcut the pavement in a smooth straight line before any excavation commences. Flares, barricades, warning signs and similar warning devices shall be used to protect the public from harm. The city street superintendent or his authorized representative shall inspect the street opening before any crushed stone base (SB-2) backfill is placed in the opening and during the backfill operation. The backfill shall be watered and compacted by hand or machine tampers. A temporary patch of two inches of cold-mix asphalt shall be used over the top of the backfill matching the existing grade of the street surface. After the trench has had time to settle, the city street department shall make the permanent repair in accordance with Figure 1, 2 or 3.

- (2) If it is necessary to make a street cut during off-duty hours, the person making the cut shall notify the city police department. Normal duty hours are from 7:30 a.m. until 4:00 p.m., Monday through Friday, with the exception of holidays. The city street superintendent or his authorized representative shall inspect all street cuts made during off-duty hours. An extra charge in the amount as currently established or as hereafter adopted by resolution of the city council from time to time shall be billed to the person making the cut during off-duty hours to compensate the city street superintendent or his authorized representative.
 - (3) The person who makes the street cut shall be responsible for making any needed repairs due to settling of the cut or loss of cold-mix asphalt for a period of 90 days from the time the temporary patch is completed, or until the permanent repair is completed by the city street department, whichever comes first.
 - (4) After the temporary patch is complete, the city street superintendent or his authorized representative shall make a final inspection and measure the width and length of the street cut. The cost of the permanent repair shall be billed as currently established or as hereafter adopted by resolution of the city council from time to time. The cash and/or bond deposited with the city shall be returned to the applicant after the applicant has paid for the cost of the permanent repair, and the final cleanup of the trench cut is complete.
- (d) *Curb cuts for driveways.* Curb modifications for driveways shall be in accordance with this chapter.
- (1) The street superintendent or his authorized representative shall inspect the curb cut after the excavation for the driveway is complete and before any base material, asphalt or concrete is placed for the construction of the driveway. A final inspection shall be performed after the driveway construction and cleanup is complete. The cash and/or bond deposited with the city shall be returned to the applicant when the curb modification is completed.
 - (2) *Exceptions.* Whenever a building permit has been issued to construct, alter or repair a building, and a curb cut is required, the chief city building inspector shall be responsible for issuing curb cut permits. The inspection fee and requirement of cash/and or bond to be deposited with the city shall be waived. The same construction and inspection procedures as outlined under subsection (a) of this section shall be followed, with the exception that the chief city building inspector or his representative shall be responsible for making all inspections.

(Code 1992, § 8-859; Ord. No. 320, § 4, 4-12-1992)



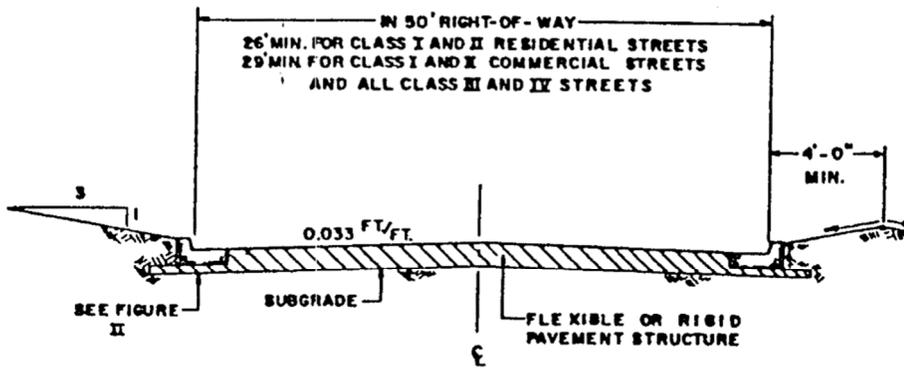


FIGURE IA

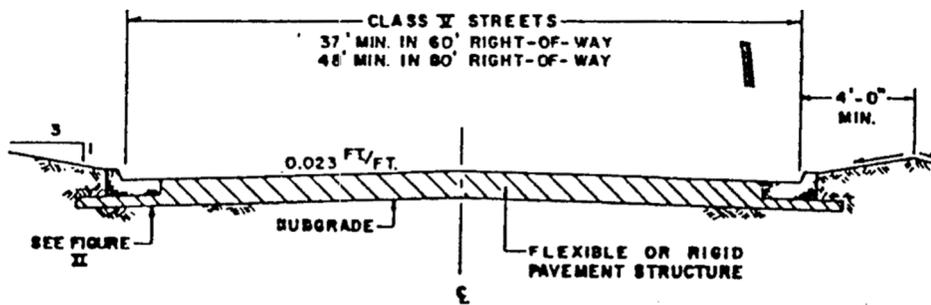
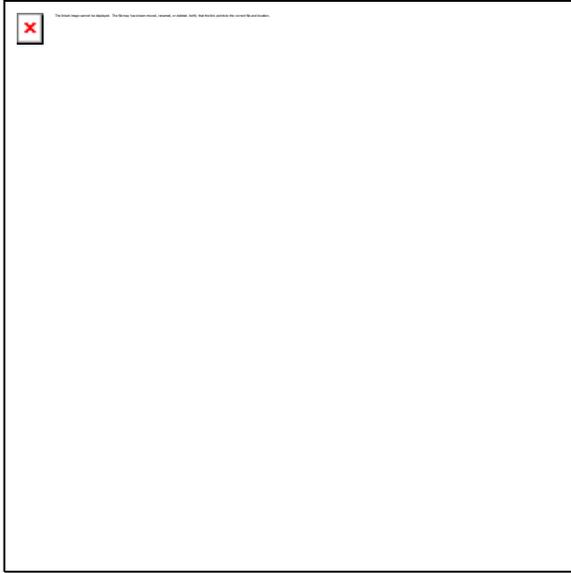
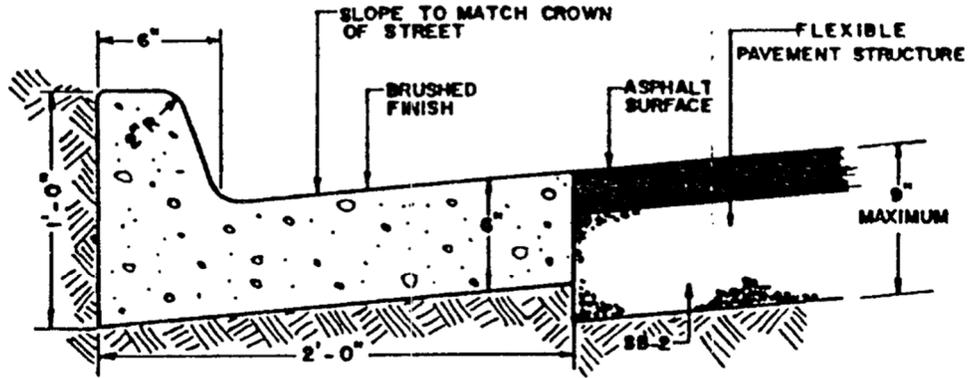


FIGURE IB

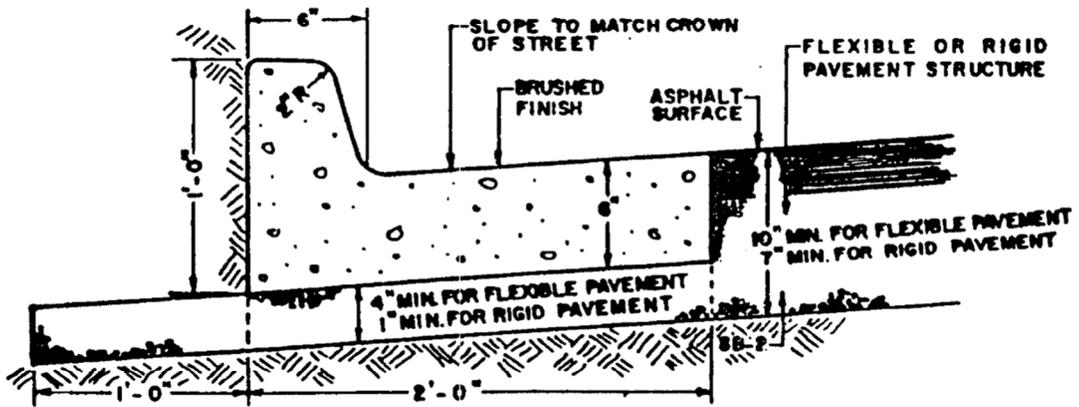
TYPICAL STREET SECTION

FIGURE I





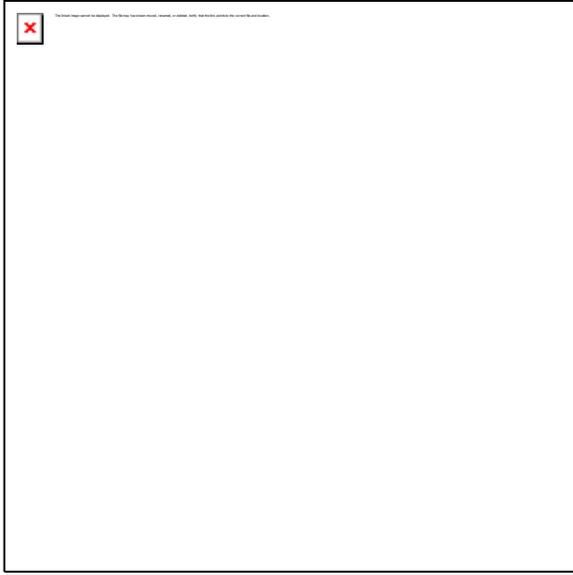
NOTE: This section to be used when flexible pavement structure is 9" or less.



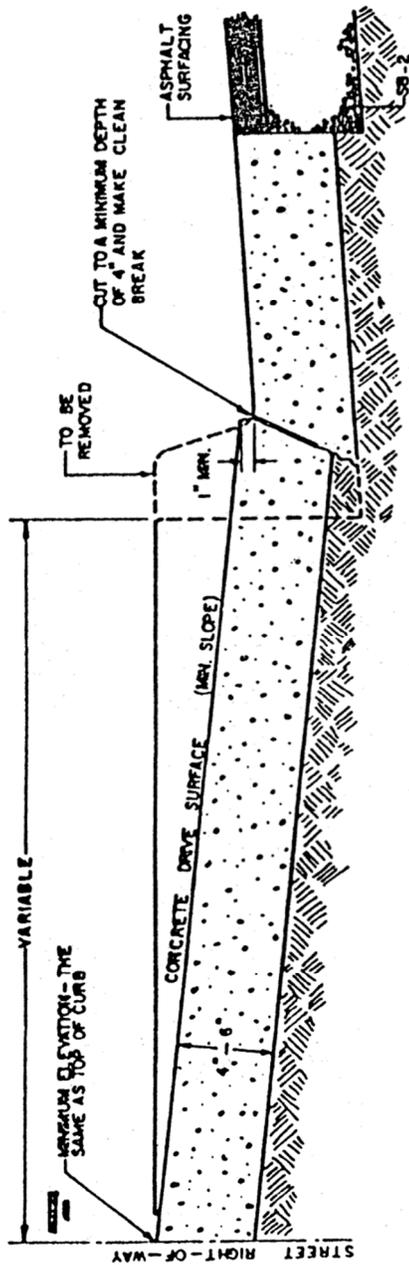
NOTE: This section to be used when flexible pavement structure is 10" or more and for all rigid pavements.

CONCRETE COMBINATION CURB & GUTTER

FIGURE II



Typical Driveway Cut



OPTIONAL CONSTRUCTION METHOD

As an alternate, the entire curb and gutter section for the driveway may be sawed full depth and removed. The curb and gutter section removed shall then be reconstructed as a part of the driveway. The modified curb and gutter must have the shape shown above, and have ½" filled construction joints at each end of the driveway.

TYPICAL DRIVEWAY CUT

FIGURE III

Secs. 16-866—16-893. - Reserved.

DIVISION 5. - STREET AND STORM DRAINAGE CONSTRUCTION

Sec. 16-894. - Plans and specifications.

- (a) *Submission for review and approval.* Detailed plans and specifications for all proposed streets and storm drainage systems and other items of construction to become a part of the city shall be prepared under the supervision of a registered professional engineer registered in the state (hereafter referred

to as the "engineer"). Five copies of the plans and one copy of the specifications shall be submitted to the city engineer (hereafter referred to as the "city engineer") for review and signed approval.

- (b) *Engineer's certification.* The engineer shall submit a certification to accompany the engineering design calculations and detailed plans and specifications as follows:

"I, _____, Registered Professional Engineer No. _____ in the State of Arkansas, hereby certify that the engineering design, drainage studies, reports, calculations and specifications for this proposed development have been prepared in accordance with the requirements of the city and generally accepted standards of engineering practice. Further, I hereby acknowledge that the review of the drainage studies, reports, calculations, designs and specifications by the city or its representatives cannot and does not relieve me from any professional responsibility or liability."

Signed and Sealed by
Professional Engineer

- (c) *Construction note.* The plans and specifications shall have the following statement clearly displayed on the cover sheet:

"Review of these plans is limited to general compliance with city codes and regulations and does not warrant the engineer's design or relieve the developer of any requirements, even if errors, omissions or any inadequacies are discovered after plan approval. The city's requirements shall govern over any conflicts with the plans or specifications. Any conditions determined in the field which require changes shall be subject to further review and corrective action."

- (d) *Approval of plans.* Upon approval of the plans and specifications, one signed copy shall be returned to the engineer and four copies will be retained by the city engineer.
- (e) *Construction stake-out and inspection.* The engineer shall be responsible for the construction stake-out of all improvements and shall make periodic inspections during construction to ensure that the improvements are constructed in accordance with the approved plans and specifications. Where field changes are required, or where construction of facilities is required where no detailed design drawings exist, the engineer shall review such proposed work in the field with the city engineer or his designated representative and shall secure acceptance of such proposed work prior to commencement of the work.
- (f) *As-built plans.* Upon completion of the project and before acceptance by the city, the engineer will submit one copy of the as-built plans, with all changes indicated in red to the city engineer, and they shall become the permanent record.
- (g) *Construction certification.* The engineer will submit a statement of cost of all street and drainage improvements and a certification that they were constructed in accordance with the engineer's plans and specifications and the specifications of the city.

(Code 1992, § 8-860; Ord. No. 320, § 4, 4-12-1992; Ord. No. 538, § 1, 8-10-2000)

Sec. 16-895. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AASHTO means American Association of State Highway and Transportation Officials.

AASHTO T 99 (Standard Proctor) means laboratory determination of the maximum density to which a soil can be compacted using a 5½-pound rammer and a 12-inch drop.

AASHTO T 180 (Modified Proctor) means laboratory determination of the maximum density to which a soil can be compacted using a ten-pound rammer and an 18-inch drop.

ACHM means asphalt concrete hot-mix.

ADT means average daily traffic.

AHTD means Arkansas State Highway and Transportation Department.

ASTM means American Society for Testing and Materials.

EAL means equivalent axle load.

Kip means unit of measure equal to 1,000 pounds.

LL means liquid limit—the moisture content at which a soil passes from a plastic to a liquid state.

PI means plasticity index—the numerical difference between the liquid limit and plastic limit of a soil.

psi means pounds per square inch.

(Code 1992, § 8-861; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-896. - Minimum standards for street classifications, street geometrics and right-of-way widths, soil classifications and pavement sections.

The proposed street classifications, street geometrics and right-of-way widths, soil classifications, and pavement sections shall equal the following minimum standards and requirements:

- (1) *Street classifications by traffic and 18-kip EALs.* These street classifications should not be confused with the functional classifications of the master street plan. Class I, II, III and IV streets are minor streets as defined in section 16-370. Each street shall be classified by function and/or traffic in one of the following classes, subject to approval by the city engineer:
 - a. *Class I.* Residential drives including short drives, short dead-end streets, or short cross streets.
 1. Minimum of 0—50 vehicles per day.
 2. Maximum of five average 18-kip EALs per day.
 3. Maximum of 36,500 total 18-kip EALs in 20-year design period.
 - b. *Class II.* Light residential, light commercial and minor residential collector streets including:
 1. Residential subdivision streets with no through traffic.
 2. Cross streets in the established street system.
 3. Light commercial streets in a small commercial area.
 - i. Minimum of 50—150 vehicles per day.
 - ii. Maximum of ten average 18-kip EALs per day.
 - iii. Maximum of 73,000 total 18-kip EALs in 20-year design period.
 - c. *Class III.* Residential collector and commercial streets including:
 1. Major streets in a residential subdivision used for access to a through street or highway (collectors will have the right-of-way over the class I and II streets in subsections (1)a. and b. of this section).
 2. Commercial streets.
 - i. Minimum of 150—400 vehicles per day.
 - ii. Maximum of 40 average 18-kip EALs per day.
 - iii. Maximum of 292,000 total 18-kip EALs in 20-year design period.

- d. *Class IV.* Minor residential arterial, heavy commercial, and light industrial streets including:
 - 1. Through streets in a residential subdivision.
 - 2. Heavy commercial streets.
 - 3. Light industrial streets in a small industrial area with little or no adjacent area for expansion.
 - i. Minimum of 400—850 vehicles per day.
 - ii. Maximum of 80 average 18-kip EALs per day.
 - iii. Maximum of 584,000 total 18-kip EALs in 20-year design period.
 - e. *Class V.* All higher class streets (formal design procedures shall be used):
 - 1. Minimum of 850 vehicles per day.
 - 2. Maximum of 80 average 18-kip EALs per day.
 - 3. Maximum of 584,000 total 18-kip EALs in 20-year design period.
- (2) *Street geometrics and right-of-way widths.*
- a. All proposed street widths and right-of-way widths shall equal the minimum widths shown in Figures IA and IB, which are not included herein but are on file in the city clerk-treasurer's office.
 - b. All culs-de-sac on residential streets shall have a minimum radius of 40 feet to the face of the curb. All culs-de-sac on commercial or light industrial streets shall have a minimum radius of 45 feet to the face of the curb. The radius of the right-of-way for these streets shall be 50 feet. At the intersection of the cul-de-sac curb and the street tangent curb, a minimum radius of 20 feet to the face of the curb shall be used to join the two sections.
 - c. All intersection approaches shall have adequate horizontal and vertical sight distance.
 - d. At intersections, the radius to the face of the curb shall be 25 feet for minor streets (classes I, II, III, IV) and 50 feet for collector streets (class V).
- (3) *Soil classifications.* The subgrade soils shall be classified according to their Group Index Classification into the following three major soils types:
- a. *Sands and gravels: A-1, A-2, and A-3 Group Index.* These are nonplastic materials with gravel and sand-size material.
 - b. *Silts: A-4 and A-6 Group Index.* The A-4 soil is a minus 40 sieve size which has an LL less than 40 and a PI less than ten. The A-6 soil is a minus 40 sieve size material with an LL less than 40 and a PI more than ten. Both soils have very little clay.
 - c. *Clays: A-7 and A-7-6 Group Index.* These are the clays and they have an LL greater than 40 and a PI greater than ten. There is an A-5 Group Index classified soil which has an LL greater than 40 and a PI less than ten. A-7 Group Index soils are the very poor soils which should be avoided if possible.
- (4) *Pavement sections for class I, II, III and IV streets.*
- a. All streets shall be classified according to traffic and subgrade soil type. The results of the sieve analysis and LL and PI tests run during the construction of the subgrade shall be used to verify the soil type used in the pavement design. If the soil type changes, the pavement structure shall be redesigned accordingly. It is strongly recommended that the engineer have preliminary sieve analysis and LL and PI tests performed before detailed plans and specifications for the streets are prepared. Copies of all test results shall be provided to the city engineer.

b. Regardless of the design procedure used, the proposed pavement sections for class I, II, III and IV streets shall equal or exceed the minimum pavement sections shown in Table 1 below, for the particular street classification and soil type, unless additional soil tests indicate the soil is capable of supporting a lighter pavement section. Any change in the minimum pavement sections shown in Table 1 shall receive written approval from the city engineer.

(5) *Pavement sections for class V and higher streets.* Formal design procedures shall be used for all class V or higher streets, or when the projected daily 18-kip EALs load exceeds 80, or when the total 18-kip EALs for the 20-year design period exceeds 584,000.

Soil Classification							
Class of Street	Group Index	Soil Description	SN Req.	Composite Flexible (SN)	Composite Flexible (SN)	Full Depth Asphalt (SN)	Concrete Pavement
	A-1	Gravel/Sand No.	2" Surf.	2" Surf.	2" Surf.	5" Concrete	
I/II	A-2	Clay	1.70	6" Base	4" CT Base	4" B. Base	2" Drainage
	A-3			(1.72)	(1.88)	(1.88)	Blanket
	A-4	Silt, Silty Sand,		2" Surf.	2" Surf.	2" Surf.	5½" Conc.
I/II	A-6	Sandy Silty Clay	1.85	7"Base (1.86)	(1.88)	(1.88)	Blanket
	A-5	Clays		3" Surf.	2" Surf.	2" Surf.	6" Concrete
I/II	A-7	LL over 40	2.35	8" Base	6" CT Base	4" B. Base	2" Drainage
	A-7-6	PI over 10		(2.44)	(2.38)	(2.38)	Blanket
	A-1	Same as		2½" Surf.	2" Surf.	2" Surf.	5½" Conc.
III	A-2	Above	1.85	6" Base	4" CT Base	4" B. Base	2" Drainage
	A-3	(Gravel/Sand)		(1.94)	(1.88)	(1.88)	Blanket
	A-4	Same as		2" Surf.	2" Surf.	2" Surf.	6" Concrete

III	A-6	Above (Silt)	2.30	2" Bind. 4" Base (2.32)	6" CT Base (2.38)	6" B. Base (3.28)	2" Drainage Blanket
	A-5	Same as		2" Surf.	2" Surf.	2" Surf.	6½" Conc.
III	A-7	Above	3.15	3" Bind.	2" Bind.	2" Bind.	2" Drainage
	A-7-6	(Clay)		7" CT Base (3.18)	6" B. Base (3.26)	6" B. Base (3.26)	Blanket
	A-1	Same as		2" Surf.	2" Surf.	2" Surf.	6½" Conc.
IV	A-2	Above	2.30	2" Bind.	6" CT Base	6" B. Base	2" Drainage
	A-3	(Gravel/Sand)		4" Base (2.32)	(2.38)	(2.38)	Blanket
	A-4	Same as		2" Surf.	2" Surf.	2" Surf.	7" Conc.
IV	A-6	Above (Silt)	2.75	3" Bind. 4" Base (2.32)	6" CT Base (2.38)	6" B. Base	2" Drainage Blanket
	A-5	Same as		2" Surf.	2" Surf.	2" Surf.	7½" Conc.
IV	A-7	Above	3.45	4" Bind.	4" Bind.	3" Bind.	2" Drainage
	A-7-6	(Clay)		6" Base (3.48)	5" CT Base (3.45)	5" B. Base (3.45)	Blanket
Class V or Higher	By formal design only						

(Code 1992, § 8-862; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-897. - Minimum standards for streets.

Plans and specifications for proposed streets shall equal the following minimum standards and be in accordance with the standards set forth in Figures IA and IB and Figure II which are on file in the clerk-treasurer's office:

- (1) *Clearing and grubbing.*

- a. All trees, stumps, roots and other obstructions, not designated to remain, shall be cleared and/or grubbed in such a manner so as to not cause injury to other things designated to remain. Stump holes shall be filled with suitable material and compacted.
- b. If material is to be burned, it shall comply with all applicable laws and ordinances, and shall be under the constant care of competent watchmen.

(2) *Roadway excavation and embankment.*

- a. Suitable material shall consist of soil or a mixture of soil, stone or gravel. It shall be free of sod, logs, stumps, roots and other deleterious matter, and it shall be capable of forming a stable embankment when compacted.
- b. All suitable material obtained during the excavating operations shall be used in the construction of the roadway embankment and subgrade, and all unsuitable material shall be used behind the curb or hauled to an approved waste area.
- c. All street cuts and grades shall conform to those shown on the approved plans or approved plan changes.
- d. Sod and vegetable matter shall be removed from the surface upon which embankment of less than four feet is to be placed.
- e. Roadway embankments shall be constructed in layers not to exceed eight inches (loose measurement), and shall be compacted at optimum to three percent above optimum moisture for that particular soil to a density, as determined by AASHTO T 191 (Sand Cone Method) or AASHTO T 238 (Nuclear Method), of not less than 95 percent of the maximum density obtained by AASHTO T 99 (Standard Proctor).
- f. In areas where solid rock is encountered, it shall be excavated to a depth of eight inches below subgrade elevation and replaced with approved material.
- g. Rock obtained during excavation operations may be placed in layers not exceeding 30 inches. The rock shall be placed in a manner that the voids between the rock fragments are filled with suitable material. The top 12 inches of the finished subgrade shall not contain rock over four inches in its greatest dimension.
- h. Embankment which is adjacent to structures and inaccessible to normal compaction equipment shall be placed in four-inch (loose measurement) layers and compacted to 95 percent of maximum density as obtained by AASHTO T 99. The material shall be compacted with mechanical equipment where it is inaccessible to the normal compaction equipment.

(3) *Subgrade.*

- a. In fill sections where A-5, A-6 or A-7 soils are encountered which have an LL greater than 40 or a PI greater than 17, an upgraded embankment material shall be used in the top two feet of the subgrade; or the top six inches of the subgrade treated with lime to reduce the PI to ten or less. In cut sections where A-5, A-6 or A-7 soils are encountered which have an LL greater than 40 or a PI greater than 17, the top six inches of the subgrade shall be treated with lime to reduce the PI to ten or less. These requirements are in addition to the pavement section required based upon the soil type of the existing subgrade material.
- b. The subgrade shall be prepared in such a manner as to ensure a firm foundation that is stable and free from dust pockets, wheel ruts and other defects.
- c. The top eight inches of the subgrade shall be compacted to a density, as determined by AASHTO T 191 or T 238, of not less than 95 percent of the maximum density obtained by AASHTO T 99. This shall be accomplished by scarifying as necessary, shaping and compacting to the required grade and section at optimum to three percent above optimum moisture content.
- d. The finished subgrade shall be string-lined to within plus or minus three-quarters of an inch of the finished grade and typical section shown on the approved plans.

(4) *Curb and gutter.*

- a. The subgrade shall be shaped and compacted to the required grade and section as shown on the plans. All unsuitable material, including soft and yielding material, shall be removed and replaced with suitable material and compacted to the proper density.
- b.
 1. For flexible pavements, the appropriate depth of the base material shall be carried at least one foot beyond the back of the curb for drainage. This requirement only applies when the total flexible pavement structure is ten inches or more. This will require a minimum of four inches of SB-2, SB-3, asphalt stabilized base, or cement-treated base between the subgrade and the curb and gutter. In efforts not to produce a trench section, the base material should be daylighted where feasible. If the flexible pavement structure is nine inches or less, it is not required to carry the base material under the curb and gutter. Figure II shows this detail.
 2. For concrete pavement, Figure II is modified to the following: The drainage blanket shall be carried at least one foot beyond the back of the curb and gutter. The slope of the subgrade shall be maintained under the curb and gutter and for at least one foot behind. Any buildup for the curb and gutter shall be with the drainage blanket. In efforts not to produce a trench section, the drainage blanket should be daylighted where feasible.
- c. All utility lines, including service lines, shall be laid, backfilled and compacted with SB-2 or SB-3 base or other material suitable to the city engineer before the curb and gutter is constructed.
- d. Any service or utility line crossings not placed before the pavement and curb and gutter are constructed shall be installed by boring where conditions permit. The procedures shall be approved by the city engineer, and a permit and a cash deposit or bond is required as provided in section 16-902.
- e. All curbs and gutters shall be constructed of Portland cement concrete in accordance with the dimensions in Figure II, and with a minimum 28-day compressive strength of 3,000 psi when tested in accordance with AASHTO T 23. The minimum cement content shall be 5½ sacks of cement per cubic yard of concrete. The concrete shall contain an air entraining agent which produces five percent plus or minus two percent air entrainment in the concrete.
- f. Where flexible pavements are used, expansion joints shall be provided at 50-foot intervals, at stationary structures such as drop inlets, and at curb returns. They are to be constructed at right angles to the curbline. Where rigid pavements are used, sawed joints shall be provided to match the transverse joints in the concrete pavement and expansion joints shall be provided at stationary structures such as drop inlets, and at curb returns. The expansion joint material shall have a thickness of one-half inch and conform to AASHTO M 213. The curb and gutter shall be cured with a curing compound or wet burlap.
- g. If the subgrade or drainage blanket is dry, it shall be wetted just prior to placing the concrete so the moisture will not be pulled from the concrete.
- h. After the concrete curb and gutter has set, the area behind the curb shall be partially backfilled before the base material is placed and compacted.
- i. Curb modifications for driveways shall be in accordance with the detail in Figure III which is on file in the city clerk-treasurer's office. The driveway shall slope up to a minimum elevation at the street right-of-way equal to the height of the curb. As an alternate, the entire curb and gutter section for the driveway may be sawed vertically for the full depth and removed. The curb and gutter shall then be construed as a part of the driveway. The modified curb and gutter must have the shape shown in Figure III, and have one-half-inch filled construction joints at each end of the driveway.

(5) *Crushed stone base course.*

- a. The base material shall consist of a mixture of crushed stone and natural fines, and shall have a percent loss by the Los Angeles Test (AASHTO T 96) not greater than 45. The

material shall contain no more than five percent by weight of deleterious matter. The crushed stone base material shall meet the following gradation requirements:

Total Percent Retained By Weight		
Size of Sieve	SB-2	SB-3
1"	0	0
¾"	10—50	0—35
#4	50—75	50—75
#40	70—90	70—90
#200	90—97	90—97

- b. The fraction passing the No. 200 sieve shall not be greater than two-thirds of the fraction passing the No. 40 sieve. The fraction passing the No. 40 sieve shall have an LL not greater than 25 and a PI not greater than six.
 - c. The depth of the crushed stone base course shall be within plus or minus one-half inch of the required depth shown in Table 1. The average of all depth measurements shall not be less than the required depth, and any depth in excess of plus one-half inch shall not be used in computing the average depth.
 - d. The base course shall be placed on an approved subgrade and spread uniformly in such a manner that no segregation of coarse and fine particles will occur. Under no circumstances shall the base course be placed on a frozen subgrade.
 - e. The base course shall be constructed in layers not exceeding eight inches of compacted depth at substantially optimum moisture. The contractor must be capable of compacting the material at this depth, otherwise the material shall be placed and compacted in layers. The density of the compacted material in each layer, as determined by AASHTO T 191 or T 238, shall not be less than 95 percent of the maximum density as obtained by AASHTO T 180 (Modified Proctor).
 - f. The finished base course shall be string-lined to within plus or minus one-half inch of the typical section shown in Figure 1.
- (6) *Cement-treated crushed stone base.* Cement-treated crushed stone base shall meet the requirements of the Arkansas State Highway Commission's Standard Specifications for Highway Construction, hereafter, referred to as the AHTD Standard Specification, for cement-treated crushed stone base course, with the following exceptions:
- a. The cement-treated crushed stone base shall consist of aggregate meeting the requirements for SB-2 or SB-3, three percent to six percent by weight of Type I Portland cement, and water at plus or minus one percent of optimum. The percent of cement and water shall be determined from laboratory tests. The specimens of aggregate, cement and water must develop a compressive strength of at least 650 psi in seven days. The type of asphalt used

for protection and cover for the cement-treated base will be at the option of the contractor, subject to the approval of the engineer.

- b. The cement-treated base shall not be mixed or placed while the atmospheric temperature is below 35 degrees Fahrenheit within 24 hours, or when the weather is foggy or rainy. During cold weather, the cement-treated base shall be protected for seven days. When the temperature is expected to drop below 35 degrees Fahrenheit, a sufficient supply of hay, straw, or other material suitable for cover and protecting the previously placed material shall be used. Any cement-treated base which has been damaged by freezing, or otherwise, shall be removed and replaced at the contractor's expense.
- c. The crushed stone base, cement and water shall be mixed in a pugmill-type central plant, a self-propelled or self-powered traveling mixer equipped with a rotor or other approved type mixer that will thoroughly mix the base and cement at the required depth and at or near the optimum moisture content, or by other methods approved by the city engineer.
- d. The cement-treated crushed stone base shall be placed on an approved subgrade and spread uniformly in such a manner that no segregation of coarse and fine particles will occur. Under no circumstances shall the base course be placed on a frozen subgrade.
- e. The cement-treated crushed stone base shall be constructed in layers not exceeding six inches of compacted depth at substantially optimum moisture. The density of the cement-treated crushed stone base, as determined by AASHTO T 191 or T 238, shall not be less than 95 percent of the maximum density as obtained by AASHTO T 180.
- f. After the cement-treated base has been finished, it shall be protected from drying by the application of approximately two-tenths of a gallon per square yard of bituminous material. The bituminous material shall be applied as soon as possible, but in no case later than 24 hours and maintained for seven days.
- g. No vehicles shall be allowed on the cement-treated base during the seven-day curing period. Finished portions of cement-treated base that are used by construction equipment shall be protected in such a manner to prevent equipment from marring or damaging the completed work. Any damage to the cement-treated base resulting from vehicles shall be removed and replaced at the contractor's expense.
- h. The depth of the cement-treated base shall be within plus or minus one-half inch of the required depth shown in Table 1. The average of all depth measurements shall not be less than the required depth, and any depth in excess of plus one-half inch shall not be used in computing the average depth.
- i. The finished cement-treated crushed stone base course shall be string-lined to within plus or minus one-half inch of the typical section shown in Figure I.

(7) *Drainage blanket.* The drainage blanket shall be one of the materials listed in this subsection:

- a. Coarse limestone screenings meeting the following gradation:

Screen Size	Total Percent Retained by Weight
1/2"	0
#4	24—35
#10	78-88
#20	92-100

#40	94-100
#200	96-100

If necessary, the screenings shall be rolled with a light steel wheel roller. The minimum depth shall be at least two inches unless the city engineer specifies a thicker depth, but in no case should the depth exceed four inches.

- b. Surface treatment aggregate meeting the AHTD Standard Specification requirements for Class 10 mineral aggregate.
- c. Asphalt stabilized base course meeting the requirement of section 16-898(a).
- d. Cement-treated base course meeting the requirements of subsection (6) of this section.
- e. Any other well-draining material approved by the city engineer.

(Code 1992, § 8-863; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-898. - Asphalt stabilized base courses, asphalt hot-mix binder courses and asphalt hot-mix surface courses.

- (a) *Asphalt stabilized base course.* Asphalt stabilized base course (black base) shall meet the ASHTD Standard Specification requirements for hot-mix asphalt stabilized base course, with the following exceptions:
 - (1) The depth of the asphalt stabilized base shall be within plus or minus one-half inch of the required depth shown in Table 1. The average of all depth measurements shall be not less than the required depth, and any depth in excess of plus one-half inch shall not be used in computing the average depth. When string-lined, the surface shall be within plus or minus one-half inch of the typical section shown in Figure II which is on file in the clerk-treasurer's office.
 - (2) The aggregate shall meet the requirements for SB-2 or SB-3 crushed stone base course.
 - (3) The aggregate and asphalt shall be mixed in an approved drum or batch plant, and placed on an approved subgrade with an approved lay-down machine.
 - (4) The mixture shall be rolled and compacted while hot to a minimum density of 95 percent of the maximum density as obtained by the AHTD standard proctor design procedures.
 - (5) Unless otherwise directed by the city engineer, a tack coat shall be used between succeeding asphalt layers. The tack shall meet the AHTD Standard Specification requirements for tack coat.
 - (6) The supplier shall submit to the city engineer a materials certification containing the aggregate gradation, asphalt content and the unit weight in pounds per cubic foot.
- (b) *Asphalt hot-mix binder and asphalt hot-mix surface courses.* Asphalt hot-mix binder and asphalt hot-mix surface courses shall meet the AHTD Standard Specifications for hot-mix binder and surface courses with the following exceptions:
 - (1) The depth of the asphalt hot-mix binder course shall be within plus or minus one-half inch of the required depth shown in Table 1. The average of all depth measurements shall be not less than the required depth, and any depth in excess of plus one-half inch shall not be used in computing the average depth.

- (2) The depth of the asphalt hot-mix surface course shall be within plus or minus three-eighths inch of the required depth shown in Table 1, plus any additional depth required as a result of deficient depth of binder and base material. The average of all depth measurements shall be not less than the required depth, and any depth in excess of plus three-eighths inch shall not be used in computing the average depth.
 - (3) The crushed stone base course or cement-treated crushed stone base course shall be primed. The prime coat shall meet the AHTD Standard Specification requirements for prime coat. The prime shall cure for at least 72 hours, or as approved by the city engineer, before placing any asphalt layer.
 - (4) Unless otherwise directed by the city engineer, a tack coat shall be used between succeeding asphalt layers. The tack shall meet the AHTD Standard Specification requirements for tack coat.
 - (5) The binder course shall meet the gradation requirements for Type II binder course or Type II surface course.
 - (6) The surface course shall meet the gradation requirements for Type II or Type III surface course.
 - (7) The binder and surface course shall be designed with a minimum 50 blow Marshall stability of 1,000 pounds, a flow of eight to 16; and two to five percent air voids. A job mix formula shall be established for both the binder course and the surface course.
 - (8) The supplier shall submit to the city engineer a materials certification giving the stability, gradation, asphalt content, and maximum theoretical density of the mix.
 - (9) Both binder course and surface course shall be compacted to a minimum of 92 percent of maximum theoretical density as determined by the 50 blow Marshall design procedures.
 - (10) If the nuclear gauge is used to determine density, it must be correlated with cores taken from the roadway.
 - (11) The minimum thickness of binder or surface courses shall be two inches. The maximum thickness that can be placed is four inches, provided the contractor can demonstrate that he can obtain the required density.
 - (12) In no case shall the speed of any roller exceed three miles per hour. If a vibratory roller is used for compaction, special care shall be taken not to decompact the mixture by over rolling. The number of roller passes is very critical to proper compaction.
 - (13) The surface course surface, when checked with a ten-foot straight edge parallel to the centerline, shall not exceed plus or minus one-quarter inch.
- (c) *Portland cement concrete pavement.* Portland cement concrete pavement shall meet the AHTD Standard Specification requirements for Portland cement concrete pavement, with the following exceptions:
- (1) The depth of the concrete pavement shall be within plus or minus three-eighths inch of the required depth shown in Table 1, plus any additional depth required as a result of a deficient subbase depth. The average of all depth measurements shall be not less than the required depth, and any depth in excess of plus three-eighths inch shall not be used in computing the average depth.
 - (2) The concrete shall have a minimum 28-day compressive strength of 4,000 psi. The minimum cement content shall be six sacks of cement per cubic yard of concrete. The concrete shall contain an air entraining agent which produces five percent plus or minus two percent air entrainment in the concrete. The slump shall be two to four inches if conventional paving equipment is used, and one to two inches if slipform paving equipment is used.
 - (3) The concrete shall be placed on an approved subbase which shall be wetted just prior to placing the concrete.
 - (4) After the concrete has been placed, consolidated and struck off with a transverse screed or slipform paver, it shall be checked for surface smoothness with a ten-foot straight edge parallel

to the centerline. The straight edge shall be lifted and placed on the centerline and pulled to the edge of the pavement. Each time the straight edge is moved forward, it shall overlap the preceding area by at least one-half of the straight edge length. Any surface irregularities shall be corrected at this time while the concrete is still in a plastic condition. Care shall be taken in a slipform operation not to pull down the pavement edge during the straight edge operation.

- (5) The concrete pavement shall be cured with a curing compound meeting the AHTD Standard Specifications for curing compound.
 - (6) Unless otherwise specified or approved by the city engineer, the transverse joints shall be sawed in the concrete pavement perpendicular to the centerline and on 15-foot centers. The depth of the joint shall not be less than one-fourth the slab thickness (T) plus one-half inch. The joint width shall be approximately one-fourth inch. The longitudinal centerline joint and the longitudinal joint between lanes of a four-lane street shall be sawed to the same joint depth and width dimensions, or the new lane may be keyed to the adjacent lane.
 - (7) All joints shall be filled with a cold-poured synthetic polymer joint material or a preformed joint material meeting the AHTD Specification requirements of Portland cement concrete pavement contraction and warping joint material.
- (d) *Surface test.* The contractor shall check the surface of each material with a ten-foot straight edge and any correction to the surface shall be made to the flexible layers prior to final compaction or to the concrete surface while the concrete is still plastic.
- (1) The finished surface when checked with a ten-foot straight-edge parallel to the centerline shall show no deviation more than one-fourth inch for ACHM surfaces or concrete surfaces.
 - (2) Skin patching and feather edging of the final surface course will not be permitted, except at the beginning or end of the project. Surface deviations in excess of one-fourth inch shall be corrected by grinding or overlaying.

(Code 1992, § 8-864; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-899. - Storm drainage system standards.

Plans and specifications for proposed storm drainage systems shall be equal to the following minimum standards:

- (1) *Pipe.*
 - a. Reinforced concrete pipe shall conform to AASHTO M 170 for circular pipe and to AASHTO M 206 for arch-shaped pipe. Class III shall be the minimum class of pipe used. The joint seal shall be either cement mortar, three parts sand and one part cement, or cold-applied preformed plastic gaskets conforming to AASHTO M-198, Type B.
 - b. All pipe for driveways shall be reinforced concrete pipe.
 - c. Corrugated pipe shall conform to AASHTO M 36, AASHTO M 190 for coated pipe and to AASHTO M 218 for sheets-to-form pipe. As an alternate to bituminous-coated pipe, precast pipe meeting the requirements of AASHTO M 245 and M 246, for Type B, may be substituted.
 - d. Flared end sections may be used when approved by the city engineer and shall be of the same material as the pipe for a given installation.f. The reinforced concrete flared end sections for circular and arch concrete pipe shall meet the applicable requirements for class II or higher class of pipe.
 - e. All pipe shall have a minimum cover at subgrade elevation of one foot at the shoulder or curb, unless otherwise approved by the city engineer.

(2) *Excavation, trench preparation and installation.*

- a. Where the pipe is laid below ground line, the trench shall be excavated to the required depth and width to allow sufficient room for tamping of backfill. The bottom of the trench shall be shaped to conform to the bottom of the pipe with recesses excavated to receive the bells where bell-and-spigot pipe are used. Where pipe is not laid in a trench, a uniform firm bed shall be made as specified above.
- b. When rock is encountered in the trench, it shall be removed to a minimum depth of six inches below the pipe, and the excess depth shall be filled with a suitable material as defined in subsection (2)a of this section and compacted.
- c. All unsuitable material, including soft and yielding material, shall be removed and replaced with suitable material and compacted to ensure a firm support.
- d. The pipe shall not be laid in water or in unsuitable weather or trench conditions, unless approved by the city engineer.
- e. After each joint of pipe has been graded, aligned and placed in final position, the bedding material shall be deposited and compacted under and around each side of the pipe and back of the bell, or the end thereof, to firmly hold and maintain the pipe in proper position and alignment during subsequent pipe joining, embedment and backfilling operations.
- f. No debris creating a clogging action shall be allowed to remain in the storm drainage system.
- g. All storm drainage pipe under any street improvement shall be backfilled with SB-2, SB-3 base material or material approved by the city engineer and compacted before the base course and curb and gutter are constructed. The backfill base material shall be brought up evenly on each side of the pipe to avoid displacement. Special care shall be taken to compact the material under the haunches of the pipe. The base material shall be compacted with mechanical equipment to at least 95 percent of the maximum density as determined by AASHTO T 180.
- h. When culvert pipe is to be relayed, the construction procedures shall be in accordance with the AHTD Standard Specification requirements for relaying culvert pipe.
- i. When structural plate pipe and arches are used, the materials and construction procedures shall be in accordance with the AHTD Standard Specification requirements for structural plate pipe and arches.

(3) *Headwalls, drop inlets and junction boxes.*

- a. All drainage structures shall be constructed of reinforced concrete.
- b. All concrete shall have a minimum 28-day compressive strength of 3,000 psi when tested in accordance with AASHTO T 23. The minimum cement content shall be 5½ sacks of cement per cubic yard of concrete. The concrete shall contain an air entraining agent which produces five percent plus or minus two percent air entrainment in the concrete.
- c. The minimum thickness of reinforced concrete walls, floors, and tops shall be six inches.
- d. Concrete drainage structures shall be constructed with reinforcing steel having a maximum spacing of 12 inches on centers and a minimum size of number four bar.
- e. Concrete bottoms of structures shall be poured at least 24 hours prior to beginning construction of the vertical walls.
- f. Junction boxes shall have a minimum interior dimension of four feet.
- g. Walls shall be constructed to form a tight joint with the floor and around the inlet and outlet pipes. The pipes shall be flush with the inside surface of the wall.
- h. A drop inlet shall be located at the lowest point of all sag vertical curves.
- i. Corner drop inlets are not allowed unless approved by the city engineer.

- j. Unless otherwise directed by the city engineer, all drop inlets shall have two-inch to three-inch diameter weep holes at the subgrade elevation.
- k. Headwalls shall be constructed on the upstream and downstream sides of the storm drainage system where no other drainage structures are required, or flared end sections may be used when approved by the city engineer.

(4) *Rings, covers, grates and frames.*

- a. Iron castings shall conform to ASTM A 48 Class 30A for gray iron castings.
- b. The combined weight of the ring and lid for the sidewalk type shall be a minimum of 125 pounds and for the street type shall be a minimum of 300 pounds.

(5) *Pipe underdrain.*

- a. Pipe underdrains shall be installed in any area where subsurface water is encountered and other areas as determined by the city engineer.
- b. The underdrain shall be located just behind the curb.
- c. Outlets shall be provided on at least 300-foot intervals, or as approved by the city engineer. To the extent possible, the underdrain pipe should be connected with a drop inlet of the storm drainage system.
- d. The underdrain material and construction procedures shall be in accordance with the ASHTD Standard Specifications for pipe underdrain, with the following exceptions:
 - 1. Only corrugated polyethylene tubing and acrylonitrile-butadiene-styrene pipe shall be used in the construction of pipe underdrains.
 - 2. Granular filter material shall meet the requirements of subsection 802.02(f) of the ASHTD Standard Specifications for coarse aggregate for Class A concrete.
 - 3. A nonwoven geotextile fabric having the following properties shall be used as a liner for the pipe underdrain:

Property	Test Procedure	Value (minutes)
Weight, oz./sq. yd.	ASTM D-1910	4.1
Thickness, mils	ASTM D-1777	40
Tensile strength, lbs.	ASTM D-1682	115
Elongation, percent	ASTM D-1682	55
Puncture strength, lbs. (modified)	ASTM D-751	70
Mullen burst strength, psi	ASTM D-751	260
Coefficient of permeability, cm/sec.	Constant Head	0.10

4. Trenches shall be excavated to minimum depth of 26 inches below the top of the curb or as directed by the city engineer.
5. Following excavation of the trench, the nonwoven geotextile fabric liner shall be placed in the trench. The liner shall be of sufficient width to cover the bottom and sides of the trench and lap a minimum of one foot across the top of the granular filter material used to backfill above the top of the pipe.

(Code 1992, § 8-865; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-900. - Inspections, sampling and testing requirements.

Inspection and sampling and testing requirements shall be as follows:

(1) *Inspections.*

- a. The following three types of inspections will be made during the progress of the project:
 1. Intermediate progress inspections which can be made at any time.
 2. Phase inspections which are required at the completion of a major phase of work and prior to the start of the next phase of work.
 3. Final acceptance inspection which will be made upon the completion of all work.
- b. All inspections will be made by the city engineer or his designated representative. The phase inspections and the final inspection will be made with the contractor and the engineer. Intermediate progress inspections shall be made by the engineer to ensure that work is progressing in accordance with the approved engineering plans and specifications.
- c. The city engineer has the authority to increase the amount of inspection and/or testing.
- d. Intermediate progress inspections are required on pipe underdrains before the granular backfill material is placed above the top of the pipe.
- e. A phase inspection is required upon the completion of the following phases of work:
 1. Completion of the subgrade.
 2. Completion of the base course and curb and gutter.
 3. Completion of the paving.
- f. Any work performed on a phase prior to the approval of the previous phase shall be removed and replaced with satisfactory materials and workmanship.
- g. All unsatisfactory work or materials shall be removed and replaced with satisfactory materials and workmanship.
- h. If the project is long, the phase inspections may be made on a small portion of the project, but not less than 1,000 feet in length.
- i. The engineer is responsible for contacting the city engineer at least 24 hours prior to the need of a major phase inspection.
- j. The engineer will accompany the city engineer and/or his designated representative on all inspections.

(2) *Sampling and testing.*

- a. The city, with the approval of the owner/developer, shall retain the services of a testing laboratory or registered professional engineer practicing in the materials and testing field (hereafter referred to as the lab engineer) to perform all sampling and testing. The developer will reimburse the city for the costs of all sampling and testing performed on the project,

including any additional sampling and testing as a result of failing tests and/or poor workmanship before the street will be accepted by the city.

- b. The lab engineer will report all test results to the city engineer with a copy to the engineer.
- c. In the case of failing tests or poor workmanship, the city engineer may direct the lab engineer to perform additional sampling and testing.
- d. The following is the minimum sampling and testing frequency:
 1. *Cross drain backfill.* For cross drain backfill, a minimum of one density test per pipe or box culvert location.
 2. *Storm drain backfill.* For storm drain backfill, a minimum of one density test per 500 lineal feet of pipe or portion thereof when the storm drain is located in the street or under the curb and gutter.
 3. *Embankment.* For embankment, a minimum of one density test per layer per 500 lineal feet of roadway or portion thereof.
 4. *Subgrade.* For subgrade, a minimum of one density test, one LL and one PI per 500 feet of roadway with a minimum of three density tests per project, and one sieve analysis per project for subgrade soil classification.
 5. *Base course.* For base course, a minimum of one density test and one depth measurement (depth sounding) per 500 lineal feet of roadway, with a minimum of three density tests and three depth measurements per project. Also, there will be a minimum of one gradation test and one PI test per project.
 6. *Asphalt stabilized base (black base), ACHM binder, and ACHM surface courses.* For asphalt stabilized base (black base), ACHM binder, and ACHM surface courses, a minimum of one density test and one depth measurement per 500 lineal feet of roadway, with a minimum of three density tests and three depth measurements per project.
 7. *Structural concrete for drainage structures.* For structural concrete for drainage structures, a minimum of one set of three concrete cylinders per 50 cubic yards of concrete or portion thereof. One cylinder will be broken at seven days and the other two will be broken at 28 days.
 8. *Structural concrete for curb and gutter.* For structural concrete for curb and gutter, a minimum of one set of three concrete cylinders per 1,000 lineal feet of curb and gutter or portion thereof. One cylinder will be broken at seven days and the other two will be broken at 28 days.
 9. *Concrete pavement.* For concrete pavement, a minimum of one set of three concrete cylinders per 500 lineal feet of pavement or portion thereof, with a minimum of one set per project. The set shall be broken in seven and 28 days as described above. Also, one core and depth measurement per 500 lineal feet of complete pavement with a minimum of one per project.

(Code 1992, § 8-866; Ord. No. 320, § 4, 4-12-1992; Ord. No. 538, § 2, 8-10-2000)

Sec. 16-901. - Provisions for acceptance of nonspecification materials.

The following provides for corrective actions to be taken and/or provisions for accepting a street into the city system when test results indicate nonspecification materials or workmanship have been incorporated into the project. Any penalties which are assessed shall be paid to the city by the owner/developer before a street will be accepted by the city.

- (1) *Density for embankment, subgrade, pipe backfill, and crushed stone base course.* Recompact until the minimum density is obtained.
- (2) *Depth of crushed stone base course.* The depth of the crushed stone base shall be within plus or minus one-half inch of the required depth. If the deficient depth is greater than one-half inch, the existing material represented by the test will be ripped up, newly added and recompact to the proper density. If the average of all depth measurements is less than the required depth shown in Table 1, the deficient depth will be added to the required depth of the surface course or concrete pavement. Any depth in excess of plus one-half inch will not be used in computing the average depth.
- (3) *Density for asphalt-treated base.* When any individual density is below 93 percent, the section represented by this test will be removed and replaced. The average of all densities shall be 95 percent or greater. If the average density of the project is below 95 percent, the following penalties shall be assessed:

Percent	Percent of Cost of In-Place Material
94.5 to 94.9	5
94.0 to 94.4	10
93.0 to 93.9	25
Below 93.0	Remove and replace

- (4) *Density of cement-treated base.* When any individual density is below 93 percent the section represented by this test will be removed and replaced. The average of all densities shall be percent or greater. If the average density of the project is below 95 percent the following penalties shall be assessed:

Percent	Percent of Cost of In-Place Material
94.5 to 94.9	5
94.0 to 94.4	10
93.0 to 93.9	25
Below 93.0	Remove and replace

- (5) *Depth of asphalt-treated base or cement-treated base.* The depth of the asphalt-treated base or the cement-treated base shall be within plus or minus one-half inch of the required depth. If the

average of all depth measurements is less than the depth shown in Table 1, the deficient depth will be added to the required depth of the surface course or concrete pavement. Any depth in excess of plus one-half inch will not be used in computing the average depth.

- (6) *Density of ACHM binder and surface.* No individual density shall be lower than 90 percent of maximum theoretical density. Any section with a density below that value shall be removed and replaced. The average of all densities for the project shall be not less than 92 percent of the maximum theoretical density. If this average is less than 92 percent, the following penalties shall be assessed:

Percent	Percent of Cost of In-Place Material
91.5 to 91.9	3
91.0 to 91.4	5
90.5 to 90.9	15
90.0 to 90.4	30
Below 90.0	Remove and replace

- (7) *Depth of ACHM binder.* The depth of the binder shall be within plus or minus one-half inch of the required depth. If the average of all depth measurements is less than the depth shown in Table 1, the deficient depth will be added to the required depth of the surface course or concrete pavement. Any depth in excess of plus one-half inch will not be used in computing the average depth.
- (8) *Depth of ACHM surface.* The depth of the asphalt hot-mix surface course shall be within plus or minus three-eighths inch of the required depth plus any additional depth required due to deficient depths in the base and binder courses. The average of all depth measurements shall not be less than the required depth and any depth in excess of plus three-eighths inch will not be used in computing the average depth. If the average depth is less than the required depth, it will be corrected by overlaying with additional ACHM surface, or as directed by the city engineer.
- (9) *Surface tolerance of ACHM surface.* If the surface deviation is greater than one-fourth inch when checked with a ten-foot straight edge, the surface smoothness will be corrected as directed by the city engineer.
- (10) *Structural concrete strength.* The average 28-day compressive strength of the two cylinders of a set shall be at least 3,000 psi. If the average strength is lower, the following penalties shall be assessed:

psi	Percent of Cost of In-Place Material
2,750—2,999	5

2,500—2,749	10
2,250—2,499	20
2,000—2,249	40
Below 2000	Remove and replace

(11) *Concrete pavement strength.* The average 28-day compressive strength of the two cylinders of a set shall be at least 4,000 psi. If the average strength is lower, the following penalties shall be assessed:

psi	Percent of Cost of In-Place Material
3,500—3,999	3
3,000—3,499	7
2,750—2,999	15
2,500—2,749	25
2,250—2,499	40
Below 2,250	Remove and replace

(12) *Concrete pavement depth.* The concrete pavement depths shall be within plus or minus three-eighths inch of the required depth plus any additional depth required as a result of a deficient subbase depth. The average of all depth measurements shall not be less than the required depth, and any depth in excess of plus three-eighths inch will not be used in computing the average depth. If the average depth is less than the required depth, the following penalties shall be assessed:

Deficient Depth	Percent of Cost of In-Place Material
Required depth to - 1/8 inch	1
Minus 1/8 to - 1/4 inch	3

Minus ¼ to - 3/8 inch	7
Minus 3/8 to - ½ inch	15
Minus ½ to - 5/8 inch	25
Minus 5/8 to - ¾ inch	40
More than - ¾ inch	Remove and replace

- (13) *Concrete pavement surface.* The concrete surface shall not show any deviation greater than one-fourth inch when checked with a ten-foot straight edge. Any deviation greater than this shall be corrected by grinding, removing and replacing, or as directed by the city engineer.

(Code 1992, § 8-867; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-902. - Licensing and bonding requirements.

- (a) All corporations, firms or individuals constructing streets and/or storm drainage systems shall have a state contractor's license. Upon completion of the improvements and before acceptance by the city, a surety maintenance bond naming the city as the obligee shall be furnished by either the owner, developer or contractor. The developer shall also furnish an affidavit that all materials, supplies and labor bills have been paid.
- (b) A surety maintenance bond shall be submitted on a form prepared by the city and shall be in the amount of 50 percent of the amount of the contract price for the repair, replacement where required, or cost thereof, of all work performed under the terms of the contract, where such repair or replacement is required because of defective workmanship or material, or both which becomes apparent within a period of one year from the date of acceptance by the city of such streets and/or storm drainage systems. Any suit under this bond must be instituted before the expiration of three months from the end of the one-year term of the bond.

(Code 1992, § 8-868; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-903. - Variations.

If any provisions of this article are shown by the developer to cause undue hardship as they apply to his proposed development, or if it is alleged there is error in any order, requirement, decision, interpretation, or determination made by the city engineer in the enforcement of this article, the city planning commission may grant a variance to the developer from such provisions so that substantial justice may be done and the public interest secured; provided that the variation will not have the effect of nullifying the intent and purpose of this article. In granting variances and modifications, the planning commission may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

(Code 1992, § 8-869; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-904. - Enforcement.

The city engineer shall be responsible for enforcement of the provisions of this article. Corrective actions to be taken or penalties assessed on streets under section 16-835 shall be determined by the city engineer with the approval of the city council.

(Code 1992, § 8-870; Ord. No. 320, § 4, 4-12-1992)

Sec. 16-905. - Commonly used pavement material combinations.

Table 2 contains a few of the more commonly used pavement material combinations. The engineer, with the approval of the city engineer, may use other material combinations if the flexible pavement layered theory is followed; the required structural number (SN) is provided; and the minimum layer thicknesses and the material coefficients shown in Table 2 of this section used, with the exception that the ACHM surface thicknesses as indicated in the table is the minimum thickness allowed for each minimum pavement section shown. The LL and PI test results of the subgrade shall be used for verifying the final pavement structure.

(Code 1992, § 8-871; Ord. No. 320, § 4, 4-12-1992)

TABLE 2		
<i>Type of Material</i>	<i>Material Coefficient Inch of Material</i>	<i>Minimum Layer Thickness (Inches)</i>
Portland cement concrete pavement	**	5
Drainage blanket	***	2
ACHM surface course	0.44	2
ACHM binder course	0.44	2
Asphalt stabilized base (black base)	0.25	4
Cement-treated crushed stone base	0.25	4
Treated subgrade	0.00	6
Crushed stone base (SB-2 or SB-3)	0.14	4

Gravel base course (GB-2 or GB-3)	0.11	4
Soil cement (400 to 600 PSI)	0.20	6
Levelup course	0.00	Thickness as needed

**Part of the rigid pavement design, and the flexible pavement coefficients do not apply.

Drainage blanket shall be a minimum of two inches and shall consist of coarse limestone screenings, AHTD class 10 mineral aggregate, asphalt stabilized base, or other drainage material approved by the city engineer.

Secs. 16-906—16-928. - Reserved.

ARTICLE XI. - BUILDING AND TECHNICAL CODES [\[7\]](#)

Footnotes:

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State Law reference— Authority to regulate buildings and construction, A.C.A. § 14-56-201 et seq.

Sec. 16-929. - Building inspector appointed; enforcement.

- (a) There is hereby created the office of building inspector. The building inspector shall be of good moral character, over the age of 21 years and shall be appointed by the mayor and approved by the city council. The building inspector shall be responsible for all electrical, plumbing, structure, and fire inspections and shall be under the direct supervision of the fire chief.
- (b) His determinations may be appealed to the city planning commission. The decision of the city planning commission may be appealed to the city council.

(Code 1992, § 8-951; Ord. No. 249, § 4, 5-12-1987; Ord. No. 297, § 2, 5-8-1990)

Sec. 16-930. - Adopted.

- (a) The following reference codes are adopted by the city:
 - (1) The latest edition of the Arkansas Fire Prevention Code, based on the International Fire Code, the International Building Code, and the International Residential Code, including the following Appendices:
 - a. Volume 1.
 - 1. B - Fire Flow Requirements for Buildings.
 - 2. C - Fire Hydrant Locations and Distribution.
 - 3. D - Fire Apparatus Access Roads.
 - 4. E - Hazard Categories.

5. F - Hazard Ranking.
 6. G - Cryogenic Fluids.
- b. Volume 2.
1. C - Group U - Agricultural Buildings.
 2. D - Fire Districts.
 3. E - Supplementary Accessibility Requirements.
 4. F - Rodent Proofing.
 5. G - Flood Resistant Construction.
 6. I - Patio Covers.
- c. Also, the following local amendment shall amend the state fire protection code, Volume III, Section R 321 to become Section R 321.3.3:
1. Buildings that are constructed greater than two feet 11 15/16 inches from a property line, but less than ten feet from a property line or assumed property line, shall have ends protected by a fire partition extending from the floor (if on slab) or from the foundation walls (if on a crawl space) to the bottom of the roof deck. Fire partitions shall be made of OSB, plywood, brick, block, sheet rock, or other materials approved by the building official. Approved materials may be applied to the inside or outside of framing.
 2. That fire partition shall be defined as a vertical or horizontal assembly of materials designed to restrict the spread of fire in which openings are protected. Windows and doors not exceeding 25 percent of total square footage and below ceiling level of said wall shall not be required to be protected.
- d. Building valuation data will be based on tables published and updated twice yearly by Building Safety Journal of the International Code Council as regional building valuations.
- e. Permit fees for temporary structures, as defined by the fire protection code, will be a minimum as currently established or as hereafter adopted by resolution of the city council from time to time and may be increased, based on the complexity of the project, as determined by the building official.
- f. The city council hereby amends the current Fire Prevention Code by inserting the following:

Conflicts. Where conflicts occur between provision of 2013 edition of Arkansas Fire Prevention Code and referenced codes and standards, the most stringent shall apply.

Address Numbers. New buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is legible from the street or road fronting the property. Numbers shall be in contrasting color from the exterior color scheme. Addressing shall be as followed:

Single Family Homes Minimum 6" high 5/8 " contrasting numbers

Multi-Family Communities (Apartments, condos, townhouses)

Building Numbers:

Minimum 18" high numbers with a 3" stroke with contrasting background.

- Building under 100' long only require one number per building.
- Building over 100' long require a minimum of two numbers per building.

Apartment/Corridor Spread Numbers

- Apartment/Corridor spread numbers are to be a minimum 4" high number with a 5/8 " brush stroke with contrasting background.
- Number example format:

301—310 3rd Floor

201—210 2nd Floor

101—110 1st Floor

Commercial/Industrial Buildings

Address sizing shall be determined by the distance from the street curb.

Distance from Curb Number Height Brush Stroke

Up to 100'	8"	2"
101' to 300'	12"	2"
301' to 400'	18"	3"
401 +	24"	4"

Marquee and Monument Address installed on a marquee or monument located next to the street will require numbers measuring eight inches (8") high with a two inch (2") brush stroke be located a minimum three feet (3') above grade. Numbers shall contrast with the background.

Alarms. An approved fire alarm system meeting the requirements of NFPA 72 shall be installed and connected to all new automatic sprinkler systems and shall communicate an audible and visual alarm throughout the entire building. Such sprinkler water flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. A clear lens horn strobe tied to the water flow shall also be provided on the address side of the structure to indicate water flow in the sprinkler system.

Fire Department Connections (FDC). All FDC's shall be a four inch by five inch (4"×5") Storz fitting with a thirty (30) degree turn down and provide a sign reading FDC in six inch (6") letters. The FDC will be remote from the building and not attached. A fire hydrant will be provided within twenty-five (25) feet of the FDC.

Hydrant Spacing. The average hydrant spacing for commercial or industrial areas shall be three hundred (300) feet, residential spacing shall be five hundred (500) feet, hydrants should alternate every two hundred-fifty (250) feet on streets with center medians and underdeveloped incorporated areas shall have an average spacing of one thousand (1000)

feet. Areas without water supply refer to NFPA 1142 or the International Wildland-Urban Interface Code.

Maximum Distance. The maximum distance from any point on the street or road frontage to a hydrant shall not exceed two hundred (200) feet.

Hydrant locations in reference to entrances. The first fire hydrant shall be located at the street intersection or at the main entrance(s) into a subdivision, apartment complex, or commercial development. Additional hydrants shall be spaced per Arkansas Fire Prevention Code.

- (2) The latest edition of the Life Safety Code of the National Fire Protection Association.
- (3) The latest edition of the National Electrical Code of the National Fire Protection Association with the following local amendments, said local amendments to amend the National Electrical Code as any conflict may exist:
 - a. Service ground wire will be enclosed in PVC conduit only unless directed otherwise by the administrative authority, or the energy supplier.
 - b. A minimum of one carbon monoxide detector will be installed in each new residence constructed within the city limits. NFPA 720, 1998 Edition, "Recommended Practice for The Installation of Household Carbon Monoxide (CO) Warning Equipment" shall be incorporated, in its entirety, into this amendment by reference.
 - c. There shall be an external main disconnect within five feet of any electrical meter installed within the city, except in extreme or unusual circumstances it may be located a greater distance by approval of the electrical inspector.
 - d. Reserved.
 - e. Residential.
 1. There shall be no more than four convenience duplex outlets on one circuit in the kitchen, utility and workshop.
 2. There shall be no more than eight fixtures on light circuit.
 3. All major appliances shall be on separate circuits.
 - f. Commercial. Load calculations (individual branch circuits and total) will be furnished to the building inspection division upon application for electrical permit.
 - g. If electrical wiring or any part thereof which is installed, altered or repaired is covered before being inspected by the inspector, it shall be uncovered for inspection after notice to uncover the work has been issued to the responsible person by the inspector.
 - h. Any new installation exceeding ten circuit distribution at lighting panels must have two spare circuits and provisions made to use them in case of later alterations or additions.
 - i. All fixtures used to supply current to general appliances shall be of screw-type terminals. Convenience outlets and general lighting circuits shall be of copper content, and the wire size thereof shall be of not less than #12 A.W.G. wire.
 - j. No convenience outlet or appliance outlet shall be installed or operated on a general lighting branch circuit, at any time, in any occupancy.
 - k. On any proposed remodeling where more than 50 percent of the electrical wiring in any structure is to be altered, electrical wiring throughout the structure shall be made to comply with the requirements of 2002 N.E.C. The chief electrical inspector may, at his discretion, waive these requirements.
 - l. It shall be unlawful for any person, other than an authorized employee of the electric service company, the city electrical inspector or authorized member of the fire department, to break

any seal of any electric meter, transformer or cabinet. In case of emergency, an authorized employee of a licensed electrical contractor or an employee under the supervision of a licensed electrician may break a seal when necessary to replace fuses. In such cases, the electric service company must be notified by the party breaking the seal within 24 hours, in order that the equipment may be resealed.

- m. No electric service meter will be installed before final inspection without approval from the building inspection division.
- n. All underground lines shall be protected in conduit.

In order to procure an electrical permit for the installation of electrical wiring work, any person before beginning any electrical wiring, shall make application to the building inspection division and shall pay the permit fee required as currently provided or as hereafter adopted by resolution of the city council from time to time.

- (4) The latest edition of the state gas code (including Appendix A).
- (5) The latest edition of the Arkansas Mechanical Code, based on the International Mechanical Code with the following local amendments; said local amendments to amend the Arkansas Mechanical Code as any conflict may exist, deleting Appendix B:
 - a. Dryer vents.
 - 1. Dryer vent terminations shall have a minimum clearance of 12 inches above finished grade to the bottom of the vent termination.
 - 2. Dryer vents shall have at least a one-eighth-inch per foot fall to the termination.
 - 3. Dryer vents shall not be trapped.
 - 4. Dryer vents shall not be located within ten feet of HVAC condensing unit.
 - 5. Vertical dryer vents shall have an accessible clean-out installed at the base of the vertical run of the vent.
 - b. HVAC ducts and plenums.
 - 1. All ducts, both supply and return, shall be of galvanized sheet metal, refer to table 603.4 of the Arkansas Mechanical Code.
 - 2. Installation of flexible nonmetallic duct and flexible metallic duct material is prohibited with the following exception: When a suspended ceiling is to be installed, the final connections not to exceed six feet, may be flexible duct material or as approved by the building inspector.
 - 3. All types of wiring, including thermostat, nonmetallic cable, and alarm systems wiring, shall not be installed any where in the duct system, unless plenum rated.
 - 4. All joints and connections must be mechanically fastened (sheet metal screws or other approved fasteners), and sealed with welds, gaskets, or mastic, and UL-approved tape as approved by the building inspector.
 - 5. Ducts shall be suspended to allow at least 12 inches for insulation as per the Arkansas Energy Code.
 - 6. Return air platform, plenum, duct or space shall be lined and sealed so as to be made airtight.
 - c. HVAC electrical connections.
 - 1. All electrical connections shall use an approved disconnect, within six feet of each piece of heating and air conditioning equipment, and readily accessible. (Cord and plug connections are allowed on inside gas heating units, if accessible and installed in accordance with N.E.C.)

2. A receptacle for service equipment shall be installed within six feet of the equipment, and may be installed upstream from the equipment disconnect where provided.
 - d. Fuel line connections.
 1. At a minimum, rigid steel piping, of at least schedule 40, must extend through the sheet metal cabinet where the final connections may be made using an approved flexible connector.
 2. Fuel line piping shall not be installed within any part of the air system of the HVAC system including ducts and plenums.
 - e. Fireplace enclosures, including unvented decorative log sets and/or zero clearance fireboxes, shall be fire stopped at each ceiling level or attic space in order to stop the unrestricted path of fire to the attic or other concealed spaces.
 - f. Open-flame fuel burning appliances shall not be allowed in any structure deemed by the fire chief or his representative to contain or produce combustible, flammable, or explosive dust or vapors.
 - g. Attic access ladders for attic installation of HVAC units shall have sufficient capacity to support the weight of one service person plus the heaviest piece of equipment requiring periodic replacement (minimum 300 pound rating).
- (6) The latest edition of the state plumbing code as adopted by the state board of health, with the following local amendments, and deleting Appendix A:
- a. All PVC or plastic gas, water, or sewer service lines require a continuous tracer wire with one end brought out to an accessible location.
 - b. All PVC or plastic gas service lines to be buried a minimum of 18 inches below finish grade. Service lines of other than iron pipe material shall be sleeved with a minimum of schedule 40 PVC under all paved or poured parking and driveway areas.
 - c. Thermal expansion protection will be installed on all closed loop water heater systems.
 - d. Gas service lines out of use more than 30 days will require an air test before being tagged for new service.
 - e. Water heaters installed in any location, other than garages, where leakage could cause damage to building structure, ceiling, floor or wall coverings will be installed in an approved drain pan with proper discharge.
 - f. All mobile home services require permits by licensed contractors.
 - g. Private sewer systems with on-site discharge will require installation by a licensed septic installer. Private sewer systems with off-site discharge will require a sewer system permit and installation by a licensed plumber.
 - h. Gas services utilizing medium pressure or higher delivery shall locate all pressure regulators outside in an open atmosphere unless otherwise approved by authority having jurisdiction. Such installations shall have a gas stop at the metering location and a separate stop immediately outside the structure.
 - i. To that extent any existing ordinances to the contrary are hereby repealed in that respect only.
- (7) [The International Property Maintenance Code, 2009 edition, as published by the International Code Council, be and is hereby adopted as the property maintenance code of the city.]
- a. The following sections are hereby revised:
Section 101.1 Insert: The City of Lowell
Section 103.5 Insert: Schedule of City fees as published on the City web site.

Section 111.2 thru 111.2.5 are deleted in their entirety.

Section 112.4 Insert: \$50.00, \$500.00.

Section 302.4. Insert: Six (6) inches.

Section 304.14. Insert: April 1st, October 31st.

Section 602.3. Insert: October 1st, April 31st.

Section 602.4. Insert: October 1st, April 31st.

- (b) The schedule of permit fees shall be as currently established or as hereafter adopted by resolution of the city council from time to time.
- (1) The following reinspection procedures and fees are hereby adopted and apply to all permits issued by the construction services department. Each permit (building permit, electrical permit, plumbing permit, and mechanical permit) fee will cover initial and all subsequent reinspection fees.
 - (2) For the purpose of this article, the building official, and his assistants, shall be the administrative authority authorized to enforce the provisions of these codes.

(Code 1992, § 8-952; Ord. No. 103, § 2, 8-11-1966; Ord. No. 249, § 1, 5-12-1987; Ord. No. 297, § 1, 5-8-1990; Ord. No. 352, § 1, 4-12-1994; Ord. No. 359, § 1, 4-12-1994; Ord. No. 368, § 1, 9-13-1994; Ord. No. 448, § 1, 3-11-1997; Ord. No. 484, §§ 1, 2, 9-8-1998; Ord. No. 506, §§ 1—5, 8-10-1999; Ord. No. 695, §§ 1—9, 12-21-2004; Ord. No. 737, § I, 12-21-2005; Ord. No. 789, § 1, 2, 6-5-2007; Ord. No. 887, §§ 1, 2, 4-19-2011; Ord. No. 908, §§ 1—3, 4-17-2012; Ord. No. 973, § 1, 5-17-2016; [Ord. No. 1026, § 1, 1-15-2019](#).)

Editor's note— Ord. No. 887, §§ 1, 2, adopted April 19, 2011, did not specifically amend the Code; however, said provisions have been included as § 16-930(a)(7), at the editor's discretion.

State Law reference— State plumbing code, A.C.A. § 17-38-101 et seq.; state fire prevention code, A.C.A. § 12-13-105; adoption of technical codes by reference, A.C.A. § 14-55-207.

Sec. 16-931. - Accessibility to fire hydrants.

No building to be used for industrial or commercial purposes larger than 5,000 square feet in floor space shall be erected unless within 200 feet of, and readily accessible to, adequate fire hydrants.

(Code 1992, § 8-953; Ord. No. 249, § 2, 5-12-1987)

Sec. 16-932. - Sprinklers.

- (a) In addition to the requirements of all other ordinances, all structures, including new construction and additions to existing structures that exceed 40 feet in height above mean grade or 12,000 square feet in area, being calculated as the total area on all occupiable floors, shall be sprinkled in accordance with the NFPA-13 unless granted a variance by the board of adjustment.
- (b) The fire chief shall be authorized to enforce this section and monitor all buildings and construction sites for compliance.

(Code 1992, § 8-954; Ord. No. 249, § 3, 5-12-1987; Ord. No. 625, § 1, 6-10-2003)

Sec. 16-933. - Key boxes.

When access to or within a structure or an area is, in the opinion of the fire chief, unduly difficult because of secured openings, or where immediate access is necessary for lifesaving or firefighting purposes, or when hazardous materials data are required to be provided to the fire department by occupants of the structure, the fire chief may require a key box to be installed in an accessible location. The key box shall be of a type approved by the fire chief and shall contain keys to gain necessary access, as required by the fire chief, and shall also contain any other information as shall be required by the fire chief. Notification by the fire chief to the business or industry shall be by certified mail and such notification shall provide necessary information to the business or industry, including the type and location of the key box and a final date at which such box is required to be installed.

(Code 1992, § 8-956; Ord. No. 347, § 1, 3-15-1994)

Sec. 16-934. - International Swimming Pool and Spa Code.

- (a) That a certain document, three copies of which are on file in the office of the city clerk, being marked and designated as the International Swimming Pool and Spa Code, 2012 edition, as published by the International Code Council, be and is hereby adopted as the Pool and Spa Code of the city, regulating and governing the design, construction, alterations, movement, renovation, replacement, repair and maintenance of swimming pools, spas, hot tubs, aquatic facilities and related equipment as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Pool and Spa Code on file in the office of the city clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in subsection (b).
- (b) The following sections are hereby revised:
 - Section 101.1 Insert: City of Lowell, Arkansas
 - Section 105.6.2 Insert: See Permit Application
 - Section 105.6.3: 50% 50%
 - Section 107.4 Insert: Working without a Permit
 - Section 107.4 Insert: \$500.00
 - Section 107.4 Insert: 10 Days
 - Section 107.5 Insert: \$50.00/\$500.00
- (c) When reference is made within said code to the duties of a certain official named therein, that designated official for the city, shall be the fire chief, and/or his designee(s), shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. Further, three copies of the code adopted hereinabove shall be kept at the office of the city clerk and shall be available for inspection by the public during regular business hours.
- (d) This section supersedes and replaces any other ordinances in conflict herewith, except that nothing contained in this section, or the code adopted hereby, shall in any way alter or modify the "employment at will" status of all employees of the city, including any and all employees who will apply and administer these codes.
- (e) In the event any one or more of the provisions contained in this section shall for any reason be held by a court of law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this section, and this section shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

(Ord. No. 946, §§ 1—4, 4-15-2014)

Secs. 16-935—16-954. - Reserved.

ARTICLE XII. - COMMUNITY DESIGN STANDARDS

DIVISION 1. - GENERALLY

Sec. 16-955. - General intent and objective.

These standards are outlined to address items not found elsewhere in the land development code and are in addition to other code sections of this chapter.

- (a) It is the general purpose and intent of these design standards to foster the use and development of land in an orderly manner by both private and public interests in the city with special consideration given to the appearance of the community and the health and welfare of its residents.
- (b) Specific purposes of these standards include the following:
 - (1) To provide for the orderly and functional arrangement of land uses and buildings.
 - (2) To establish standards for the orderly development and redevelopment within the city.
 - (3) To conserve and protect the taxable value of land and buildings in the city.
 - (4) To preserve, protect and encourage the development of buildings, groups of buildings and development sites of distinguished architectural character and appearance.
 - (5) To avoid the deterioration of the health, sanitation, safety, and public welfare brought about by poor planning and by indiscriminate and unregulated construction of inferior and unsuitable buildings.
 - (6) To promote well-designed, high quality development throughout the city that encourages community connection and enhances the social, economic, and environmental well-being of those who live, work, and travel within it.

(Ord. No. 770, § 1(a), 12-5-2006)

Sec. 16-956. - REVOKED

(a)

(Ord. No. 770, § 1(b)1, 12-5-2006)

Sec. 16-957. - Application.

The provisions of this article shall apply to all developments throughout the city that meet one or more of the following thresholds:

- (1) All new construction requiring building permits;
- (2) Major rehabilitation which shall include any renovation, restoration, modification, addition, or retrofit of a structure or site that exceed 50 percent of the current appraised value of any structure or site established by county. Rehabilitation costs shall be aggregated over a five-year period to determine whether the development is subject to these rules. Major rehabilitation shall not include

routine maintenance and repair of a structure or other feature on the surrounding site, such as roof replacement or general repairs to a parking area or other site feature; and/or

- (3) Addition or alterations to a building or site, excluding interior-only improvements, which total 50 percent or more of the gross square footage of the existing building or site.

(Ord. No. 770, § 1(b)2, 12-5-2006)

Sec. 16-958. - REVOKED

(Ord. No. 770, § 1(b)3, 12-5-2006)

Sec. 16-959. - REVOKED

(Ord. No. 770, § 1(b)4, 12-5-2006)

Secs. 16-960—16-976. - Reserved.

DIVISION 2. – RESIDENTIAL DESIGN GUIDELINES AND STANDARDS

Sec. 16-977. - Subdivisions and Single-Family Development.

- (1) *Detailed Lot Grading.* For all subdivisions, detailed lot grading shall be provided with the preliminary plat. Lot grading shall include the establishment of a minimum building finished floor elevation two feet above the 100 year water surface elevation (WSE) or one foot above curb, whichever is greater.
- (2) *Drainage easements.* No drainage easements shall be allowed in the rear yard of subdivisions without the approval of the city engineer.
- (3) *Open Space.* All subdivisions shall provide a minimum of 5% of the gross site area as community open space for public amenities. Public amenities may include, but are not limited to, sports courts and/or playing fields, playgrounds and other recreation areas, pavilions, and parks. Stormwater detention areas may not count as public amenities unless such areas are accessible and usable year-round as determined by the city (e.g., picnic areas, passive recreation areas, walking trails, etc.). Open spaces should be landscaped with a mix of trees, shrubs, and ornamental grasses or perennials.

(Ord. No. 770, § 1(c)1, 12-5-2006)

Sec. 16-978. - Multifamily development.

- (1) *Building Exterior Appearance and Design Standards.* Well-designed, high-quality developments contributes to a more attractive streetscape by providing buildings with architectural detailing with a mix of colors and textures, articulated facades and rooflines, and durable, high-quality materials that will not rapidly decay or be easily damaged. Architectural renderings must be provided with the application submission, and the following guidelines should be used:
 - a. Developments containing more than one building should incorporate a recurring, unifying, and identifiable theme for the development site, without replicating the same building multiple times.
 - b. Developments should be architecturally compatible with surrounding development.

- c. All structures should be designed to address adjacent streets and highway rights-of-way, and should include a prominent entryway on the principal façade.
 - d. Boxlike structures with large, blank, unarticulated wall surfaces should be avoided, and metal siding or unpainted concrete precision block walls should not dominate the principal façade.
- (2) *Open Space*. All multifamily developments shall provide a minimum of 10% of the gross site area as community open space for public amenities. Public amenities may include, but are not limited to, sports courts and/or playing fields, playgrounds and other recreation areas, pavilions, and parks. Stormwater detention areas may not count as public amenities unless such areas are accessible and usable year-round as determined by the city (e.g., picnic areas, passive recreation areas, walking trails, etc.). Open spaces should be landscaped with a mix of trees, shrubs, and ornamental grasses or perennials.
- (3) *Mix of Housing Types*. Developing a mix of housing types creates greater housing choices for residents as well as opportunities for more diversity within a community. Developments should be encouraged to provide a range of housing types to promote a diverse community of mixed ages, family types, and incomes.

(Ord. No. 770, § 1(c)2, 12-5-2006)

Sec. 16-979. - REVOKED

(Ord. No. 770, § 1(c)3, 12-5-2006)

Sec. 16-980. - REVOKED

(a)

(Ord. No. 770, § 1(c)5, 12-5-2006)

Sec. 16-981. - REVOKED

(Ord. No. 770, § 1(c)5, 12-5-2006)

Secs. 16-982—16-1005. - Reserved.

DIVISION 3. - COMMERCIAL DESIGN GUIDELINES AND STANDARDS

Sec. 16-1006. - General planning and orientation standards.

- (1) *Building Exterior Appearance and Design Standards*. Well-designed, high-quality developments contributes to a more attractive streetscape by providing buildings with architectural detailing with a mix of colors and textures, articulated facades and rooflines, and durable, high-quality materials that will not rapidly decay or be easily damaged. Architectural renderings must be provided with the application submission, and the following guidelines should be used:
- a. Developments containing more than one building should incorporate a recurring, unifying, and identifiable theme for the development site, without replicating the same building multiple times.

- b. Developments should be architecturally compatible with surrounding development.
 - c. All structures should be designed to address adjacent streets and highway rights-of-way, and should include a prominent entryway on the principal façade.
 - d. Boxlike structures with large, blank, unarticulated wall surfaces should be avoided, and metal siding or unpainted concrete precision block walls should not dominate the principal façade.
 - e. Recommended materials include brick and concrete masonry; stone; split-face, scored, or ground face block; architectural metal panels; and fiber cement siding.
 - f. Discouraged materials include vinyl siding, standing seam or aluminum siding; smooth face block; and EFIS at the ground level.
- (2) *Mechanical/Utility Equipment and Refuse Containers.* Mechanical and utility equipment and refuse containers shall be screened if visible from the highway/street right-of-way or from residential property as set forth below:
- a. All mechanical and utility equipment located on the wall and/or on the ground shall be screened with vegetation, by incorporating screening into the structure, or by utilizing paint schemes that complement the building and screen the equipment.
 - b. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the principal structure utilizing materials and colors compatible with the supporting building.
 - c. Commercial, office, and mixed-use developments are required to provide adequate space for the placement of two (2) front-end load dumpsters, easily accessible for collection services. The minimum free and clear dimensional requirements for placing two (2) front-end load dumpsters in an enclosure is 24 feet wide and 12 feet deep.
 - d. Recycling and trash containers shall be screened by enclosures with materials that are compatible with and complementary to the principal structure, with access to the refuse containers not visible from the street. Containers may be screened from view by the principal structure; by a permanent walled or fenced enclosure; or with appropriate vegetation, planted at a density and size sufficient to be view obscuring immediately from the date of planting; so long as the screening is maintained and loose trash does not litter the ground or become an environmental nuisance.

(Ord. No. 770, § 1(d), 12-5-2006)

Sec. 16-1007. - REVOKED

(Ord. No. 770, § 1(d)1, 12-5-2006)

Sec. 16-1008. - REVOKED

(a)

(Ord. No. 770, § 1(d)2, 12-5-2006)

Sec. 16-1009. - REVOKED

(Ord. No. 770, § 1(d)3, 12-5-2006)

Sec. 16-1010. - **Minimum building separation.**

The minimum separation between multifamily buildings, including accessory buildings, shall comply with building and fire codes as adopted by the city.

(Ord. No. 770, § 1(d)4, 12-5-2006)

Sec. 16-1011. - REVOKED

(a)

(Ord. No. 770, § 1(d)5, 12-5-2006)

Secs. 16-1012—16-1035. - Reserved.

DIVISION 4. - REVOKED

Sec. 16-1036. REVOKED

(Ord. No. 770, § 1(e)1, 12-5-2006)

Sec. 16-1037. - REVOKED

(a)

(Ord. No. 770, § 1(e)2, 12-5-2006)

Sec. 16-1038. - REVOKED

(a)

(Ord. No. 770, § 1(e)4, 12-5-2006)

Sec. 16-1039. - REVOKED

(Ord. No. 770, § 1(e)4, 12-5-2006)

Secs. 16-1040—16-1061. - Reserved.

DIVISION 5. - REVOKED

Sec. 16-1062. - REVOKED

(Ord. No. 770, § 1(f), 12-5-2006)

Sec. 16-1063. - REVOKED

(a)

(Ord. No. 770, § 1(f)1, 12-5-2006)

Secs. 16-1064—16-1094. - Reserved.

DIVISION 6. - REVOKED

Sec. 16-1095. - REVOKED

(Ord. No. 770, § 1(g)1, 12-5-2006)

Sec. 16-1096. - REVOKED

(a)

(Ord. No. 770, § 1(g)2, 12-5-2006)

Sec. 16-1097. - REVOKED

(a)

(Ord. No. 770, § 1(g)3, 12-5-2006)

Sec. 16-1098. - REVOKED

(Ord. No. 770, § 1(g)4, 12-5-2006)

Sec. 16-1099. - REVOKED

(a)

(Ord. No. 770, § 1(g)5, 12-5-2006)

Sec. 16-1100. - REVOKED

(Ord. No. 770, § 1(g)6, 12-5-2006)

Sec. 16-1101. - REVOKED

(Ord. No. 770, § 1(g)7, 12-5-2006)

Sec. 16-1102. - REVOKED

(Ord. No. 770, § 1(g)8, 12-5-2006)

Secs. 16-1103—16-1127. - Reserved.

DIVISION 7. - LIGHTING

Sec. 16-1128. - Intent.

The intent of this division is to eliminate adverse impacts of light spillover; provide attractive lighting fixtures and layout patterns that contribute to a unified exterior lighting design; and provide exterior lighting that promotes safe vehicular and pedestrian access to and within a development, while minimizing impacts on adjacent properties.

(Ord. No. 770, § 1(h)1, 12-5-2006)

Sec. 16-1129. - Plan required.

Applicants shall submit a unified lighting plan for all multifamily developments subject to this chapter.

(Ord. No. 770, § 1(h)2, 12-5-2006)

Sec. 16-1130. - Pedestrian walkway lighting.

Pedestrian level, bollard lighting, ground-mounted lighting, or other low, glare-controlled fixtures mounted on building or landscape walls shall be used to light pedestrian walkways.

(Ord. No. 770, § 1(h)3, 12-5-2006)

Sec. 16-1131. - Lighting height.

Light poles and lighting structures shall be no more than 25 feet high. Bollard-type lighting shall be no more than four feet high. Building-mounted lighting shall be limited to accent lighting used to illuminate architectural features with a maximum height of 20 feet. Building-mounted lighting shall not be permitted to illuminate parking lots/areas. Interior and exterior lighting shall be uniform to allow for surveillance and avoid isolated areas.

(Ord. No. 770, § 1(h)4, 12-5-2006)

Sec. 16-1132. - Illumination levels.

Pedestrian areas, driveway, and parking areas shall be illuminated to a minimum average of one footcandle.

(Ord. No. 770, § 1(h)5, 12-5-2006)

Sec. 16-1133. - Design of fixtures/prevention of spillover glare.

Light fixtures shall use full cutoff lenses or hoods to prevent glare and light spill off the project site into adjacent properties, buildings, and roadways.

(Ord. No. 770, § 1(h)6, 12-5-2006)

Sec. 16-1134. - Color of light sources.

Lighting fixtures shall be have a color temperature within the range of 3000 to 5000 kelvins to ensure true color at night and ensure visual comfort for pedestrians.

(Ord. No. 770, § 1(h)7, 12-5-2006)

Secs. 16-1135—16-1161. - Reserved.

DIVISION 8. - REVOKED

Sec. 16-1162. -

(Ord. No. 770, § 1(i)1, 12-5-2006)

Sec. 16-1163. - REVOKED

(Ord. No. 770, § 1(i)2, 12-5-2006)

Secs. 16-1164—16-1189. - Reserved.

DIVISION 9. - REVOKED

Sec. 16-1190. - REVOKED

(Ord. No. 770, § 1(j)1, 12-5-2006)

Sec. 16-1191. - REVOKED

(a)

(Ord. No. 770, § 1(j)2, 12-5-2006)

Sec. 16-1192. - REVOKED

(a)

(Ord. No. 770, § 1(j)3, 12-5-2006)

Secs. 16-1193—16-1217. - Reserved.

ARTICLE XIII. - LAND ALTERATIONS AND GRADING

Sec. 16-1218. - Intent; purpose.

- (a) It is the intent of the city to safeguard the health, welfare and safety of the citizens by implementing standards and procedures for the physical alteration of land. It is not the intent of the city to supersede federal or state regulations.
- (b) The purpose of these regulations and procedures is to control excessive grading, clearing, filling, and cutting (or similar activities) which individually or in combination cause landslides, flooding, excessive runoff, siltation, degradation of water quality, erosion and sedimentation.

(Code 1992, § 8-1051; Ord. No. 476, § 1, 4-14-1998)

Sec. 16-1219. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approval means a written authorization by the city engineer.

As-graded means the surface condition on completion of grading.

Compaction means the densification of a fill by mechanical means.

Cribbing means a framework of bars for support or strengthening.

Cut means the same thing as an excavation.

Deciduous trees means trees that shed their leaves annually; small deciduous trees are no more than 40 feet tall at maturity while large deciduous trees exceed 40 feet in height at maturity.

Develop means permanently altering land by subjecting it to grading, removal of vegetation, or construction, such as, but not limited to, buildings, parking lots, streets and sidewalks.

Developmental site means that portion of any lot or parcel subjected to grading, removal of vegetation, or construction, such as, but not limited to, buildings, parking lots, streets and sidewalks.

Disturb means to alter the natural state.

Evergreen means a plant that retains leaves or needles yearround.

Excavation means the mechanical removal of earth material from water or land.

FEMA means Federal Emergency Management Agency.

Fill means a deposit of earth material placed by artificial means.

Grade means the percentage of rise or fall per 100 feet. Existing grade is the grade prior to grading. Rough grade is the stage at which the grade approximately conforms to the approved plan. Finish grade is the final grade of the site which conforms to the approved plan.

Grading means any stripping, cutting, filling in, or stockpiling of earth or land.

Ground cover means plants with low, spreading habit that form a dense mat in time, preventing erosion.

Hydro-seed means a machine-blown mixture of mulch, seed and sometimes fertilizer.

Intermittent stream means a stream that carries water part of the year and is dry another part, but receives flow from the groundwater table when it is high enough.

Landscape fabrics means a barrier against soil erosion, allowing water to pass through while keeping soil in place.

Mulch means a layer of leaves, straw, bark or other organic material spread around plants to retain moisture and to control weeds and erosion.

Natural drainageways means ephemeral, intermittent and perennial streams.

Perennial stream means a stream that carries water yearround.

Retaining wall means a structure erected between lands of different elevations to protect structures and/or prevent erosion from the upper slope. Any retaining wall over three feet in height shall be designed to meet all acting forces.

Rip-rap means a loose assemblage of stones placed on the ground to prevent erosion. Rip-rap shall be sized so that displacement does not occur due to velocity of water.

Sediment basin means a depression in a waterway designed to trap sedimentation before entry into the stormwater system.

Site means any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

Slope means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to the vertical distance.

Stabilization means that which is attained once the site is restored to its predevelopment state where the site is stabilized and will not erode.

Terrace means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

Unified soil classification system means a system adopted jointly by the corps of engineers and bureau of reclamation in 1952 to classify soils according to texture, plasticity, and performance as engineering construction material.

(Code 1992, § 8-1052; Ord. No. 476, § 6, 4-14-1998)

Sec. 16-1220. - Stormwater pollution prevention, grading, and erosion control.

- (a) The following section is hereby adopted by reference, save and except the portions thereof as are herein under modified or amended, as they were copied herein fully: The City of Lowell Stormwater Pollution Prevention, Grading, and Erosion Control.
- (b) When reference is made within the City of Lowell Stormwater Pollution Prevention, Grading, and Erosion Control Code to the duties of a certain official named therein, that designated official for the city shall be the mayor and/or his designee and shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. Further, three copies of the code adopted in subsection (a) of this section shall be kept at the office of the city clerk-treasurer and shall be available for inspection by the public during regular business hours.
- (c) All new development shall conform to the requirements for stormwater pollution prevention, grading, and erosion control established by the current City of Lowell Drainage Criteria Manual.

(Ord. No. 817, §§ 1, 2, 11-6-2007; Ord. No. 854, §§ 1, 2, 3-17-2009)

Sec. 16-1221. - General requirements.

- (a) *Protection.* Persons engaged in land alteration activities regulated by this article shall take measures to protect public and private properties from damage by such activities as hereinafter set out.
- (b) *Site conditions.* Land alteration and/or development shall conform insofar as possible to the natural contours of the land, natural drainageways, and other existing site conditions.
- (c) *Adjacent properties.* All land development shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development. More specifically, new development may not significantly impede water runoff from higher properties nor may it unreasonably channel water onto lower properties.
- (d) *Restoration.* Land shall be revegetated and restored to a condition which will minimize runoff and erosion.

(Code 1992, § 8-1053; Ord. No. 476, § 2, 4-14-1998)

Sec. 16-1222. - Permit.

- (a) *Required.* No grading, filling, excavation or land alteration of any kind shall take place without a grading permit.
- (b) *Exceptions.* Exceptions to this section are as follows:
 - (1) Excavations below finished grade for basements, footings, swimming pools, hot tubs, septic systems, retaining walls, and like structures authorized by a valid building permit.
 - (2) Construction of one single-family residence or duplex.
 - (3) Cemetery graves.
 - (4) Previously platted single-family subdivisions for which preliminary plat approval was given prior to the enactment of these regulations and procedures.
 - (5) Sites of up to one-half acre shall be exempt unless:
 - a. The cut or fill is greater than five feet in depth;
 - b. The cut or fill results in a slope greater than five horizontal to one vertical; or
 - c. More than 100 cubic yards of material are cut or filled.
 - (6) Building additions of less than 1,000 square feet where associated land alteration activities are not beyond the scope of what is necessary to construct such addition and does not result in:
 - a. A cut or fill greater than five feet in depth; or
 - b. A slope greater than five horizontal to one vertical.
- (c) *Other development activities not waived.* The following shall require a grading permit without exception:
 - (1) Developmental activities within a 100-year floodplain;
 - (2) On a slope of 20 percent or greater.
- (d) *Approval for large-scale development of a site prerequisite to issuance.* No grading permit shall be issued until the applicant has received approval for a large scale development or preliminary plat of a subdivision for the site of the proposed grading.
- (e) *Grading plan approval prerequisite to issuance.* No grading permit shall be issued until the grading plan, submitted by a registered architect, or engineer, is approved by the city engineer. A separate permit shall be required for each site; it may cover both excavations and fills.

(Code 1992, § 8-1054; Ord. No. 476, § 3, 4-14-1998; Ord. No. 498, § 2, 3-9-1999; Ord. No. 607, § 1, 12-10-2002)

Sec. 16-1223. - Minimal erosion control requirements.

All land alteration activities shall be subject to the following minimal erosion and sedimentation control measures:

- (1) The potential for soil loss shall be minimized by retaining all natural vegetation whenever possible and taking all other actions necessary to retain soil on the jobsite. The code enforcement officer may require silt fencing, or other structures, to be installed around the perimeter of all land altering jobsites.
- (2) All graded and otherwise disturbed areas shall be stabilized within five days after each stage of final grade is established. Stabilization methods such as baled straw, filter fabric, ditch checks, diversion ditches, brush barriers, sediment basins, matting, mulches, grasses and ground cover shall be used.

- (3) No intermittent or perennial stream, including a 25-foot perimeter strip measured from the top of the bank, shall be graded, developed, channeled or physically altered unless adequate means are made for erosion and sedimentation control. Likewise, cuts or fills shall be set back sufficiently from intermittent and perennial streams and other stormwater drainage systems to prevent damage from erosion or sedimentation.
- (4) Excavation material shall not be deposited in or so near to streams and other stormwater drainage systems that it may be washed downstream by high water or runoff.
- (5) Fording of streams with construction equipment or other activities which destabilize stream banks shall not be permitted.
- (6) Construction access shall be limited to a driveway cut approved by the building code enforcement office. All residential driveway cuts shall be inspected at the time of the footing inspection. All other driveway cuts shall be approved after a grading permit has been issued but before any other dirt work is started. In addition to the curb cut, the construction access shall be graveled for a minimum length of 20 percent of the lot depth or 50 feet, whichever is greater, up to a maximum of 100 feet and of six-inch thickness to minimize tracking onto the city street. These access points shall be maintained daily to remove trapped debris and maximize their effectiveness. Failure to adhere to the above will result in a stop work order.

(Code 1992, § 8-1055; Ord. No. 476, § 4, 4-14-1998; Ord. No. 663, §§ 1, 2, 3-16-2004)

Sec. 16-1224. - One-time approval.

- (a) Public and private utility organizations may obtain a one-time approval of procedures from the city engineer for all routine underground electric, water, sewer, natural gas, telephone or cable facilities. The approval will include a utility organization and its contractors, agents, or assigns and will be valid as long as the original approved procedures are followed, until the city's requirements are amended.
- (b) One-time approval may be obtained by public or private entities for the stockpiling of fill material, rock, sand, gravel, aggregate or clay at particular locations, subject to the zoning ordinance, as long as the approved plan is followed.

(Code 1992, § 8-1056; Ord. No. 476, § 5, 4-14-1998)

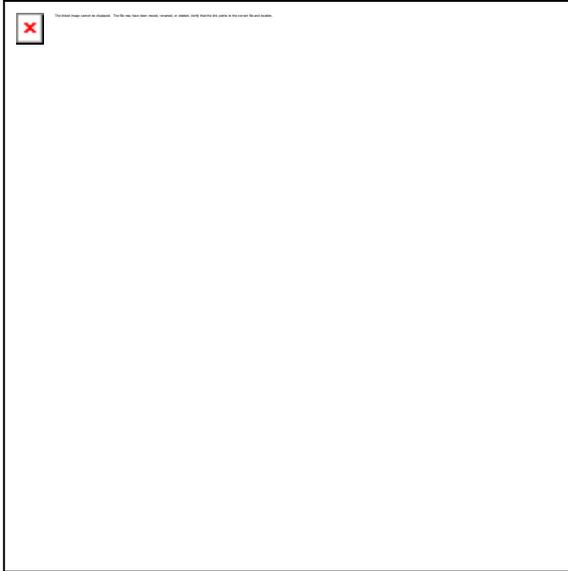
Sec. 16-1225. - Land alteration guidelines.

Grading plans shall be evaluated by the city engineer on the basis of the minimal erosion control requirements of section 16-1223 or other pertinent considerations and the approval criteria set forth. On-site soil types plus existing and planned slopes and existing and planned vegetation shall influence the degree to which more lenient or more stringent guidelines are required by the city.

(1) *Cut or fill slopes.*

- a. Cut or fill slopes shall have a finish grade no steeper than 33 percent (three horizontal to one vertical), unless thoroughly stabilized by retaining walls, cribbing, terraces, vegetation or other means approved by the city engineer.
- b. Cut or fill slopes shall be constructed to eliminate sharp angles of intersection with the existing terrain and shall be rounded and contoured to blend with the existing topography.
- c. The following setback guidelines shall be reviewed by the city engineer for public safety, stability, and drainage problems:
 1. Buildings shall be set back from the top or toe of a cut or fill in excess of five feet in accordance with the building code-approved grading plan, which shall reflect the minimum setback determined by the developer's design professional.

2. Cut or fill slopes shall be set back from property boundaries as described by the minimum guidelines in Figure A.
3. Cuts adjacent to public rights-of-way shall be set back a minimum of 25 feet, excluding driveways or access roads.

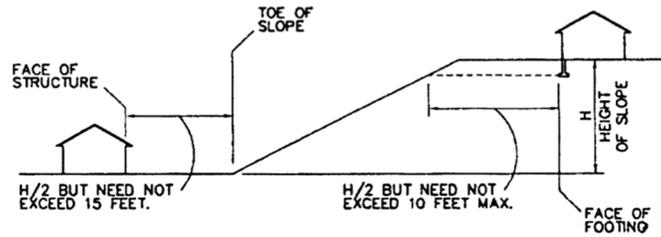


GRADING SETBACKS

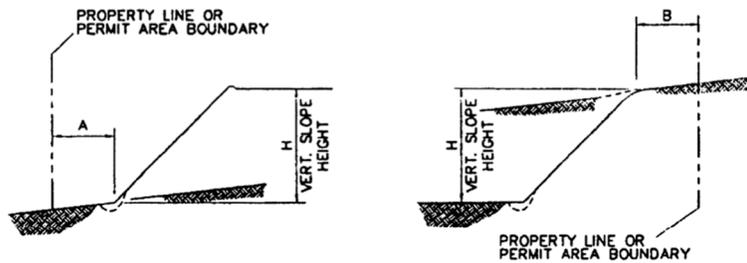
FIGURE A

BUILDING SETBACKS:

NOTE: INCREASED BUILDING SETBACKS MAY BE REQUIRED BY ZONING ORDINANCE.



PROPERTY LINE OR PERMIT AREA SETBACKS:



"H" IN FT.	A	B
0' TO 5'	1'	1'
5' TO 30'	H/2	H/5
OVER 30'	15'	6'

FILENAME: L011PC.DWG PLOT DATE: 04/15/98 PLOT SCALE: 1" = 1"

(2) *Cuts.*

- a. Cuts shall be limited to 15 feet in vertical height unless information demonstrating slope stability, erosion control and drainage control is provided together with a revegetation plan. Terraces shall be required for cut and fill slopes greater than 15 feet in height. It is recommended that terracing be at a maximum ratio of one foot of horizontal terrace for every foot of vertical surface.
- b. In no case shall a cut be allowed primarily for the purpose of obtaining fill material to a different site, unless the exporting site is located within an approved district.

(3) *Fills.*

- a. All imported fill shall be free of large rocks that compromise the integrity of the fill and any detrimental organic material or refuse debris unless approved by the city engineer.
- b. Fill shall be placed and compacted as to minimize sliding or erosion of soil. Fill compaction shall equal the compaction of undisturbed, adjacent soil, except fills covered by the building code or other structural fills. The city engineer may require soil tests during compaction work or upon its completion at the expense of the holder of the permit.
- c. Fill shall not be placed on an existing slope with a grade steeper than 20 percent (five horizontal to one vertical) unless keyed into steps in the existing grade and then thoroughly stabilized by mechanical compaction.

(4) *Erosion and sedimentation control.*

- a. Permanent improvements such as streets, storm sewers, curb and gutters, and other features for control of runoff shall be scheduled coincidental to removing vegetative cover from the area so that large areas are not left exposed beyond the capacity of temporary control measures.
- b. Topsoil shall be stockpiled and protected for later use on areas requiring landscaping. If topsoil or other soil is to be stockpiled for more than 30 days, a temporary cover of annual rye or other suitable grass shall be planted.
- c. Every means shall be taken to conserve and protect existing vegetation.
- d. Revegetation shall be required to meet the following performance standards:
 1. Zero to ten percent existing grade. Revegetation shall be a minimum of seeding and mulching. Such seeding shall provide complete and uniform coverage that minimizes erosion and runoff in no more than two growing seasons.
 2. Ten percent to 25 percent existing grade. Revegetation shall be a minimum of hydroseeding with mulch and fertilizer, staked sod and/or ground cover. Such planting shall provide complete and uniform cover in no more than two growing seasons.
 3. Twenty-five percent to 33 percent finish grade. The slope shall be covered with landscape fabric and planted with ground cover as required in subsection (4)d.2 of this section or covered with rip-rap. If rip-rap is used, the slope's stability and chance of erosion must be equivalent to or better than its predevelopment state.
 4. More than 33 percent finish grade. Any finish grade over 33 percent requires landscape fabric and stabilization by retaining walls, cribbing, terraces, vegetation or other means approved by the city engineer.
- e. Plant materials shall be watered or irrigated and tended. Where irrigation or regular watering is not available, only native or acclimated plant species shall be used. If the soil cannot properly sustain vegetation, it must be appropriately amended. If vegetation is not firmly established and healthy after one year, the building official shall require that it be redone in part or total.

- f. Plant materials shall be planted along terrace benches. Such plants shall be spaced as necessary to thoroughly stabilize the terrace bench. The remainder of the terraced slope shall be revegetated and stabilized.
- g. The developer shall incorporate permanent erosion control features at the earliest practical time. Temporary erosion control measures will be used to correct conditions that develop during construction that were unforeseen during the design stage, that are needed prior to installation of permanent erosion control features, or that are needed temporarily to control erosion that develops during normal construction projects, but are not associated with permanent control features on the project.
- h. Allowable soil loss shall not exceed the "T" factor, which is a component of the universal soil loss equation.

(Code 1992, § 8-1057; Ord. No. 476, § 7, 4-14-1998)

Sec. 16-1226. - Grading plan—Specifications.

The applicant shall prepare a grading plan as follows:

- (1) Site plan at a scale no smaller than one inch equals 50 feet, showing property lines, vicinity map, and name of owner, developer and adjacent property owners.
- (2) Existing grades shall be shown with dashed line contours and proposed grades with solid line contours. Contour intervals shall be a maximum of two feet. Spot elevations shall be indicated.
- (3) Areas with zero to 15 percent, 15 to 25 percent, 25 to 33 percent, and 33+ percent grade shall each be identified in a distinguishing manner.
- (4) Land areas to be disturbed (graded, cut, filled or cleared) shall be clearly identified.
- (5) Seal of a registered engineer, architect or landscape architect certifying that the plan complies with this regulation.
- (6) All cuts and fills, including height and slope, shall be clearly shown on the plan.
- (7) Location and names of all existing or platted streets or rights-of-way within or adjacent to the tract and location of all utilities and easements within or adjacent to the property shall all be identified.
- (8) The proposed location of lots, buildings, streets, parking lots and parks, playgrounds, or green space shall be indicated. Also to be indicated is any existing or proposed buildings within 100 feet of the site.
- (9) Soil types shall be identified according to the unified soil classification system.
- (10) Location of natural features, such as drainageways, ponds, rock outcroppings and tree cover.
- (11) Indication of 100-year floodplain as defined by FEMA.
- (12) Profiles and cross sections for proposed streets and drainageways.
- (13) Total acreage and zoning classification.
- (14) Provision for collecting and discharging surface water.
- (15) Profiles and cross sections of streets, drainage systems and underground utilities, water and sewer.
- (16) The method of treatment for all slopes and benches shall be indicated.

(Code 1992, § 8-1058; Ord. No. 476, § 8, 4-14-1998)

Sec. 16-1227. - Same—Preliminary.

The preliminary grading plan shall include all the items in section 16-1226 except subsections (5), (7), (12), (14) and (15). The following additional required information may be reported in text rather than shown on the grading plan:

- (1) Time schedule indicating the anticipated starting and completion dates of the development sequence and time of exposure of each area prior to stabilization measures.
- (2) Description of quantity (in cubic yards), source, and composition of imported fill material and compaction specifications. Also, note the quantity (in cubic yards) and destination of excavation materials to be removed from the site.
- (3) Proposals for preserving natural vegetation and description of revegetation or other permanent erosion control strategy.
- (4) Specification of measures to control runoff and sedimentation during construction, indicating what will be used, such as straw bales, silt dams, brush check dams, lateral hillside ditches, catchbasins, and the like.
- (5) Where excessive dust may become a problem, a plan for spraying water on heavily traveled dirt areas shall be addressed.
- (6) The city engineer may require a soils engineering study or soil loss calculations if site conditions so warrant.

(Code 1992, § 8-1059; Ord. No. 476, § 9, 4-14-1998)

Sec. 16-1228. - Same—Submission.

A preliminary grading plan shall be submitted at the time of preliminary plat submission for subdivisions or plan submission for large-scale development, whichever is applicable. No subdivision may be finalized nor large-scale development plan approved before a final grading plan has been submitted to the city engineer and approved. In cases where neither subdivision plat nor large-scale development plan is applicable, proof of notification of adjacent property owners and a grading plan must be submitted simultaneously with the application for a grading permit.

(Code 1992, § 8-1060; Ord. No. 476, § 10, 4-14-1998)

Sec. 16-1229. - Same—Evaluation.

- (a) In evaluating a grading plan for approval or denial, the city engineer must determine that the following questions have been affirmatively resolved:
 - (1) Has the developer followed the land alteration guidelines as set out in this article?
 - (2) Where there are deviations from these guidelines, has the developer offered alternative solutions which adequately resolve potential problems of erosion, flooding, sedimentation, and safety?
 - (3) Has the developer complied with the intent of this article?
 - (4) Is the developer making sufficient guarantees that the land will be developed in accordance to the grading plan?
- (b) When a proposed development is questionable in terms of any of the above, the city engineer shall either deny the plan or make approval contingent upon further assurances and guarantees. Final decision of the city engineer shall be made within 15 days of submission of a grading plan. All applications for which planning commission approval is required shall be scheduled for the next available meeting after the 15-day review period.

(Code 1992, § 8-1061; Ord. No. 476, § 11, 4-14-1998)

Sec. 16-1230. - Appeals.

An appeal to the board of adjustment must be filed within 30 days of the final written decision by the city engineer. Any aggrieved party may file an appeal. Notice of appeal shall be given to adjacent property owners ten days prior to the board of adjustment meeting.

(Code 1992, § 8-1062; Ord. No. 476, § 12, 4-14-1998)

Sec. 16-1231. - Minor modifications.

Finish grades shall be allowed no more than a 0.1-foot tolerance from the grading plan. However, the city engineer may authorize in writing minor modifications so long as they do not alter the direction of runoff and otherwise comply with the intent of this article. When applicable, major modifications must be brought before the planning commission for approval.

(Code 1992, § 8-1063; Ord. No. 476, § 13, 4-14-1998)

Sec. 16-1232. - Fees.

Fees under this article are as currently established or as hereafter adopted by resolution of the city council from time to time.

(Code 1992, § 8-1064; Ord. No. 476, § 14, 4-14-1998; Ord. No. 587, § A, 3-12-2002)

Sec. 16-1233. - Inspections and compliance.

- (a) The city engineer shall be responsible for determining whether construction is proceeding according to the grading plan. In applying for a grading permit, the applicant shall be deemed to have consented to such inspections. The city engineer may, when necessary, order remedial work or issue a stop work order under the terms of sections 16-1236 and 16-1237. The registered architect, landscape architect, or engineer responsible for the preparation of the grading plan shall make periodic inspections to ensure that construction is in accordance with the grading plan and shall submit a certification that all work has been constructed in accordance with the approved grading plan.
- (b) The building official shall be responsible for reviewing and enforcing the vegetative elements of this article.

(Code 1992, § 8-1065; Ord. No. 476, § 15, 4-14-1998; Ord. No. 540, § 1, 8-10-2000)

Sec. 16-1234. - Certificate of occupancy.

All revegetative and grading plan improvements shall be in place before a certificate of occupancy shall be issued. When a property owner has finished building construction but has yet to install plant material, such owner may apply for a temporary certificate of occupancy. In evaluating whether or not to grant a temporary certificate of ownership, the planning administrator shall consider weather conditions and temporary stabilization measures.

(Code 1992, § 8-1066; Ord. No. 476, § 16, 4-14-1998)

Sec. 16-1235. - Owner responsibility.

The property owner shall be responsible for his employees and for all contractors and subcontractors from the onset of development until the property is fully stabilized. If property is transferred any time between the onset of development and the time it is fully stabilized, all responsibility and liability for meeting the terms of this article shall be likewise transferred to the new property owner.

(Code 1992, § 8-1067; Ord. No. 476, § 17, 4-14-1998)

Sec. 16-1236. - Remedial work.

If it is determined through inspection that development is not proceeding in accordance with an approved grading plan, the city engineer shall immediately issue written notice thereof to the holder of the permit. Such notice shall describe the nature and location of the alleged noncompliance and specify the necessary remedial work. The permit holder shall complete the remedial work within 48 hours of the receipt of notice or a reasonable period of time as determined in advance by the city engineer.

(Code 1992, § 8-1068; Ord. No. 476, § 20, 4-14-1998)

Sec. 16-1237. - Revocation of permits and stop work orders.

- (a) The city engineer, after giving 48 hours written notice, may revoke the grading permit if remedial work is not undertaken according to the procedures in section 16-1236. Upon revocation of a permit, the city engineer shall issue a stop work order.
- (b) In cases where no permit was issued, procedures for notice and stop work order shall be the same. Such stop work order shall be directed to the permit holder, who shall immediately notify the landowner, developer and all persons or firms performing the physical work of clearing, grading and developing the land. The stop work order shall direct the parties involved to cease and desist all work on the development except required remedial work necessary to bring the project into compliance.
- (c) If the conditions described in a notice given pursuant to section 16-1236 are not removed or corrected within 15 working days after such notice is given, the mayor, or his duly authorized representative, is hereby authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described in the notice. The costs of correcting such conditions shall be charged to the owner, and the city shall have a lien against such property for such costs.

(Code 1992, § 8-1069; Ord. No. 476, § 21, 4-14-1998)

Sec. 16-1238. - Discovery of historical resources.

Whenever, during the conduct of grading, any historical, prehistorical or paleontological materials are discovered, grading shall cease and the city engineer shall be notified.

(Code 1992, § 8-1070; Ord. No. 476, § 22, 4-14-1998)

Sec. 16-1239. - Deposits on property without permit unlawful.

It shall be unlawful, during the course of any development permitted under this article, for any developer, his agents or employees to permit the placement of a deposit of any earth material removed from or carried to the site of the development upon the public streets or highways or upon any private property for which a specific permit has not been granted. In the event that such depositing should occur during the course of excavation or removal of the earth material from the site, the developer shall be responsible for recovering such earth material and cleaning up the public right-of-way, street, alley, sidewalk or other public property or private property, for which no permit has been granted, within four

hours of such initial deposit. At no time shall such deposit be permitted to remain on the public street or right-of-way in such a manner as to constitute a closing of such street to vehicular traffic or in such a manner as to constitute a hazard to the movement of traffic on such public street. In the event that such deposit constitutes the same, such deposit must be immediately removed. Failure to remove such deposits and to clean up the site as set forth in this section shall constitute a misdemeanor violation of this Code.

(Code 1992, § 8-1071; Ord. No. 476, § 23, 4-14-1998)

Sec. 16-1240. - Exclusion of city warranty on liability.

Nothing contained herein shall be construed or interpreted to constitute a warranty by the city of the compliance of any person with the provisions of the article, and the city assumes no additional liability as a result of the provisions contained herein. Nothing contained herein negates or waives the statutory immunity of the city.

(Code 1992, § 8-1072; Ord. No. 476, § 24, 4-14-1998)

Sec. 16-1241. - Bonds.

The building official may require bonds or other sureties in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

(Code 1992, § 8-1073; Ord. No. 476, § 25, 4-14-1998)

Sec. 16-1242. - Violation.

Any permit holder failing to comply with the terms of any approved grading plan shall be guilty of a misdemeanor.

(Code 1992, § 8-1074; Ord. No. 476, § 19, 4-14-1998)